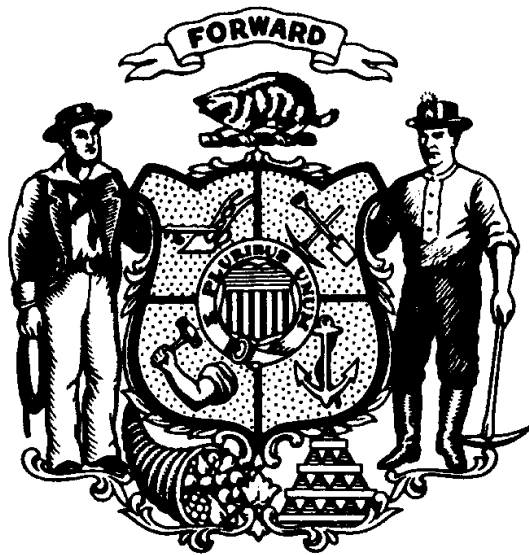


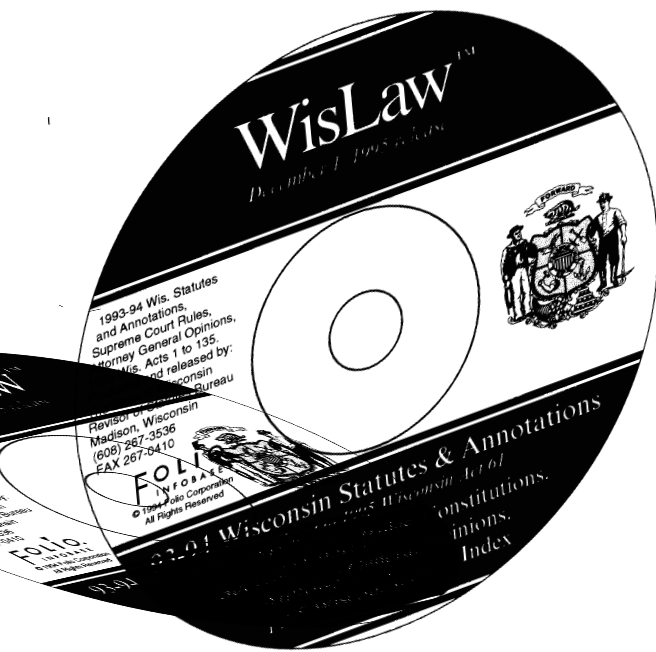
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EMERGENCY RULES NOW IN EFFECT

Under s. 227.24, Stats., state agencies may promulgate rules without complying with the usual rule-making procedures. Using this special procedure to issue emergency rules, an agency must find that either the preservation of the public peace, health, safety or welfare necessitates its action in bypassing normal rule-making procedures.

Emergency rules are published in the official state newspaper, which is currently the Milwaukee Journal Sentinel. Emergency rules are in effect for 150 days and can be extended up to an additional 120 days with no single extension to exceed 60 days.

Extension of the effective period of an emergency rule is granted at the discretion of the Joint Committee for Review of Administrative Rules under s. 227.24 (2), Stats.

Notice of all emergency rules which are in effect must be printed in the Wisconsin Administrative Register. This notice will contain a brief description of the emergency rule, the agency finding of emergency, date of publication, the effective and expiration dates, any extension of the effective period of the emergency rule and information regarding public hearings on the emergency rule.

EMERGENCY RULES NOW IN EFFECT

Department of Agriculture, Trade & Consumer Protection

Rules were adopted creating **s. ATPC 21.15**, relating to potato late blight.

Finding of Emergency

The state of Wisconsin Department of Agriculture, Trade and Consumer Protection finds, pursuant to s. 224.24 (1), Stats., that an emergency rule is necessary to preserve the public peace, health, safety or welfare. The following circumstances justify the emergency rule:

1) In recent years, new forms of the highly virulent "Irish potato famine" fungus, *Phytophthora infestans*, have caused increasingly devastating losses to potato and tomato growers in the United States and Canada. The fungus causes a disease of potato plants which is commonly known as "late blight."

2) The National Association of State Departments of Agriculture reports that late blight epidemics in 1992, 1993 and 1994 were the worst in decades, and that some individual farm losses have amounted to hundreds of thousands of dollars in a single year. The University of Wisconsin estimates that Wisconsin growers lost up to \$10 million in 1994 and \$6 million in 1995 due to late blight.

3) The potato industry is one of Wisconsin's most important agricultural industries. In 1995, Wisconsin was the 3rd leading state in the nation in potato production. Cash receipts to Wisconsin potato growers totalled over \$150 million in 1995. Potatoes are an important food source for the people of Wisconsin and other states. Potato production also supports important processing and distribution industries in Wisconsin. The uncontrolled spread of late blight would have a devastating impact on Wisconsin potato growers, and would seriously affect the public health, safety and welfare.

4) Late blight appears on potato plant leaves, stems and tubers. It causes foliar lesions which are followed by severe defoliation in

wet weather. It can also reduce marketable yield by directly infecting and rotting potato tubers. Once late blight appears, it spreads rapidly and can cause total crop loss.

5) Late blight fungal spores can be carried to other plants by many things, including wind, rain, machinery, workers, wildlife and infected seed potatoes. The University of Wisconsin reports that spores can be transported over 25 miles by storms.

6) There are very few registered fungicides in the United States that are effective in controlling the new forms of late blight fungus.

7) Because of the lack of registered fungicides, and the ease with which the late blight fungus spreads, potato growers must mitigate the spread of the disease by removing sources of the overwintering inoculum. Among other things, potato growers must properly dispose of potato cull piles and potato plants which germinate from waste potatoes.

8) If individual potato growers fail to implement necessary cultural practices to mitigate the spread of late blight, that failure will have a potentially devastating impact on other growers and on the Wisconsin potato industry as a whole.

9) In order to ensure that growers take adequate steps to mitigate the spread of late blight, it is necessary to adopt rules that spell out critical problems and establish sanctions for growers who fail to comply. Because of the imminent threat of harm to the potato industry, rules are urgently needed prior to the 1996 planting and growing season.

10) Under normal rulemaking procedures, it is not possible for the Department to adopt rules prior to the 1996 planting and growing season. Pending the adoption of permanent rules, the following emergency rules are needed to protect the public health, safety and welfare, and to mitigate the spread of late blight during the 1996 planting and growing season.

Publication Date:	May 1, 1996
Effective Date:	May 1, 1996
Expiration Date:	September 28, 1996
Hearing Date:	May 30, 1996

EMERGENCY RULES NOW IN EFFECT

Department of Corrections

Rules were adopted revising **ch. DOC 328**, relating to the procedure and timing for collecting fees charged for supervision.

Exemption From Finding of Emergency

In section 6360 in 1995 Wis. Act 27, the Legislature directed the Department to promulgate rules required under ss. 304.073 (3) and 304.074 (5), Stats., for supervision fees charged to probationers and parolees, by using the emergency rule-making procedures under s. 227.24, Stats., but without having to make a finding of emergency. These rules will remain in effect until replaced by permanent rules.

Analysis prepared by the Department of Corrections

This rule-making order implements ss. 301.08 (1) (c), 304.073 and 304.074, Stats., establishing the procedure and timing for collecting fees charged for supervision.

Currently, offenders on probation or parole pay no supervision fee. Through this emergency rule making order, the Department will

charge offenders on probation and parole a supervision fee. Offenders under administrative or minimum supervision and supervised by the Department will pay a fee sufficient to cover the cost of supervision. Offenders under medium, maximum, or high risk supervision will pay a supervision fee based on the ability to pay.

These rules exempt an offender who is supervised by another state under an interstate compact from paying a Wisconsin supervision fee. An offender who is serving a concurrent sentence of prison and probation or parole is not required to pay the supervision fee while in prison.

These rules authorize the Department to contract with a vendor to provide monitoring of an offender. Offenders who are on monitoring are required to pay a fee sufficient to cover the cost of monitoring, supervision by the Department and cost of administering the contract.

These rules require the Department to establish the rate for supervision and monitoring fees and to provide the offender with the supervision fee schedule.

These rules require offenders to comply with the procedures of the Department or vendor for payment of the supervision or monitoring fee. These rules require the Department to provide the offender with a copy of the procedures for paying the supervision or monitoring fee. These rules permit an offender to pay the supervision fee in monthly installments or in a lump sum.

These rules permit the Department to take certain action for the offender's failure to pay the supervision or monitoring fee. The actions include counseling, wage assignments, review of supervision level, recommendation for revocation of probation or parole and any other appropriate means of obtaining the supervision or monitoring fee.

Publication Date: December 21, 1995
Effective Date: January 1, 1996
Expiration Date: May 30, 1996
Hearing Date: February 13, 16 & 22, 1996
Extension Through: July 28, 1996

EMERGENCY RULES NOW IN EFFECT

Development

Rule adopted amending **ss. DOD 6.18 (1) and 6.32 (2)**, relating to the community development block grant portion of the Wisconsin development fund.

Finding of Emergency

The Department of Development finds that an emergency exists and that the attached rule is necessary to the immediate preservation of the public peace, health, safety and welfare. A statement of the facts constituting the emergency is:

On the evening of January 5, 1996, a fire broke out at Stella Foods' cheese processing and packaging plant in the Village of Lena, Wisconsin, resulting in more than \$15 million in property damage, more than \$10 million in business interruption losses, and the loss of more than 300 full-time equivalent jobs for that small rural community. As a result of the fire, 70 percent of Stella Foods' plant was destroyed, all dairy and cheese processing ground to a halt, and approximately 350 dairy farmers had to find alternative facilities to receive and process their dairy products.

The scope of the Stella Foods fire and resulting damages was exacerbated by the lack of adequate water supply and pressure to fight the fire. To address various water supply, waste water treatment

and insurance needs, and to persuade Stella Foods to reconstruct the Lena plant and rehire more than 300 former employees, the Village of Lena needs to replace its 50-year old 40,000 gallon water tank with a new 300,000 gallon water tank at an estimated cost of approximately \$890,000, and to upgrade its current waste water treatment plant at an estimated cost of approximately \$900,000. Adoption of these emergency rules will allow the Department of Development to provide the Village of Lena with the financial assistance to address the foregoing problems.

Publication Date: April 3, 1996
Effective Date: April 3, 1996
Expiration Date: August 31, 1996
Hearing Date: May 8, 1996

EMERGENCY RULES NOW IN EFFECT

Emergency Response Board

Rules adopted revising **ch. ERB 4**, relating to a fee for transporting hazardous material.

Finding of Emergency

The State Emergency Response Board finds that an emergency exists and that the attached rule is necessary for the immediate preservation of the public peace, health safety or welfare. A statement of the facts constituting the emergency is:

It is necessary to provide adequate protection against the risks to life and property inherent in the transportation of hazardous materials in commerce.

This emergency rule is being promulgated to allow continuation of the Wisconsin hazardous materials transportation registration program established in s. 166.20(7g), Stats. The State Emergency Response Board (SERB) promulgated a rule, ch. ERB 4, to implement the program. The original rule had a sunset date of June 30, 1995. A revised ch. ERB 4 was promulgated December 1, 1995, but was superseded by statutory changes to s. 166.20(7g), Stats., enacted in the Department of Transportation (DOT) biennial budget.

The emergency rule will enable the DOT to collect registration fees for the billing period July 1, 1995 through June 30, 1996. This was agreed upon as a necessary step by several agencies including SERB, Division of Emergency Government and DOT in consultation with Legislative Council and Joint Committee For Review of Administrative Rules staff. Through this collection, DOT will meet the statutory requirement to collect an annual registration fee for the transport of hazardous materials. These fees are deposited to the State Transportation Fund to partially offset the DOT appropriations funding the level A and level B hazardous materials emergency response teams in Wisconsin. The legislature has supported the emergency response team system in Wisconsin by adopting legislation to authorize teams and fund them through a combination of fees and the State Transportation Fund.

The SERB, the Department of Military Affairs-Division of Emergency Government and the Department of Transportation are jointly developing a permanent rule to reflect the statutory fee structure enacted by the legislature in the DOT 1995-97 biennial budget. It is expected a revised permanent rule will be promulgated later this year.

Publication Date: February 23, 1996
Effective Date: February 23, 1996
Expiration Date: July 22, 1996
Hearing Date: April 2, 1996

EMERGENCY RULES NOW IN EFFECT

Department of Employment Relations

A rule was adopted creating **s. ER 29.03 (8) (bm)**, relating to the rate of pay as a result of voluntary demotions by employees who are notified they may be subject to layoff.

Finding of Emergency

The Department of Employment Relations finds that an emergency exists and that rules are necessary for the immediate preservation of the public peace, health, safety of welfare. A statement of the facts constituting the emergency is:

Many state agencies are undergoing reorganizations, either at the directive of the Governor and State Legislature or on their own initiative. These organizational changes are occurring to promote efficient and effective administration of state agencies, improve delivery of services and improve coordination of similar programs. Numerous permanent positions in the classified civil service are being restructured because of a reduction in force due to a lack of work or funds or owing to material changes in duties organization. Incumbents of those positions will soon face critical career decisions and alternatives that involve new duties, classification and/or physical location of their work site.

This emergency rule allows employees who have been notified that they are "at risk" of layoff to maintain their current rate of pay if they voluntarily demote under certain circumstances within an agency. "At risk" means the employee has received written notification that layoffs may occur in the agency and the employee's position may be affected by they layoffs. The employee may be allowed to retain his/her present rate of pay only if the demotion is to a position no more than three pay ranges or counterpart pay ranges lower than the pay range of the position from which the employee is demoting.

If the option of maintaining the employee's pay rate is not available to the employee and the agency, employees will be forced to choose between options that may result in a reduction in pay, transfer or demotion to a less desirable location or position, or the employee may eventually be laid off. These consequences may adversely affect employee morale, undermine the efficient use of human resources and reduce the benefits of the agency reorganization. Retention of an employee's current rate of pay can be used by the agency as an incentive for employees to move to positions they might otherwise not choose.

For these reasons and because employee layoffs may occur before the Department could promulgate permanent rule, the Department believes a finding of emergency is warranted to preserve the welfare of individual employees and the civil service system.

Publication Date: March 18, 1996
Effective Date: March 18, 1996
Expiration Date: August 15, 1996
Hearing Date: May 3, 1996

EMERGENCY RULES NOW IN EFFECT

Wisconsin Gaming Commission

A rule was adopted amending **s. WGC 24.13 (1) (d)**, relating to simulcasting fees.

Finding of Emergency

The Wisconsin Gaming Commission finds that an emergency exists and that a rule is necessary for the immediate preservation of

the public peace, health, safety or welfare. A statement of the facts constituting the emergency is:

The previous fee of \$50 per performance made simulcasting cost prohibitive, and as a result, prevented the expansion of employment and residual economic benefits. The emergency rule will allow for the increased economic activity.

Publication Date: March 1, 1996
Effective Date: March 1, 1996
Expiration Date: July 29, 1996
Hearing Date: April 15, 1996

EMERGENCY RULES NOW IN EFFECT

Health and Social Services

(Community Services, Chs. HSS 30--)

Rules were adopted creating **ch. HSS 38**, relating to treatment foster care for children.

Exemption From Finding of Emergency

The Legislature in s. 182 (1) of 1993 Wis. Act 446 directed the Department to promulgate rules under s. 48.67 (1), Stats., as amended by Act 446, for licensing treatment foster homes, to take effect on September 1, 1994, by using the emergency rule-making procedures under s. 227.24, Stats., but without having to make a finding of emergency. They will remain in effect until replaced by permanent rules.

Analysis prepared by the Department of Health and Social Services

This rule-making order implements s. 48.67 (1), Stats., as amended by 1993 Wis. Act 446, which directs the Department to promulgate rules establishing minimum requirements for issuing licenses to treatment foster homes, including standards for operation of those homes.

Treatment foster care is a family-based and community-based approach to substitute care and treatment for children who are medically needy or emotionally disturbed and for some developmentally disabled children, and could be an alternative to institutionalization for some children. Treatment foster care is provided in a foster home by foster parents who meet education and training requirements which exceed the requirements for regular foster care, and by social service, mental health and other professional staff.

A number of public and private agencies have recently begun providing "treatment foster care," but since there are no standards currently for this type of care, those programs vary considerably in the type and quality of services they provide. These rules establish minimum standards that agencies, professional staff and foster parents would have to meet in order to claim that they are providing treatment foster care.

The rules require treatment foster homes to comply with ch. HSS 56 for regular foster homes except when there is a conflict between a provision of these rules and ch. HSS 56, in which case these rules take precedence.

The rules cover making application to a licensing agency for a treatment foster home licensee, licensee qualifications, licensee responsibilities, respite care for foster parents, responsibilities of the providing agency, the physical environment of a treatment foster home, care of the children and training for treatment foster parents.

Publication Date: September 1, 1994
Effective Date: September 1, 1994
Expiration Date: 1993 Wis. Act 446, s. 182
Hearing Date: January 24, 25 & 26, 1995

EMERGENCY RULES NOW IN EFFECT (2)

Health and Social Services

(Health, Chs. HSS 110—)

1. Rules were adopted creating **ch. HSS 182**, relating to lead poisoning prevention grants.

Exemption From Finding of Emergency

The Legislature in s. 9126 (27x) (b) of 1995 Wis. Act 27 directed the Department to promulgate rules required under s. 254.151, Stats., as created by Act 27, using emergency rulemaking procedures, but exempted the Department from the requirement under s. 227.24 (1) and (3), Stats., to make a finding of emergency. They will take effect on publication in the Milwaukee Journal Sentinel.

Analysis

These rules implement the requirement in s. 254.151, Stats., as amended by 1995 Wis. Act 27, that the Department establish criteria by rule for the award of grants to fund educational programs, including programs for health care providers, about the dangers of lead poisoning or exposure to lead; to fund lead poisoning or lead exposure screening, care coordination and follow-up services, including lead inspections, for or on behalf of children under the age of 6, not covered by third-party payers; to fund administration and enforcement activities of local health departments that, under s. 254.152, Stats., are designated by the Department to be its agents for administration and enforcement of ss. 254.11 to 254.178, Stats.

The grant program was established in mid-1994. The requirement that the Department's criteria for awarding grants be set out in rules was added by Act 27 in mid-1995. The amount available in the appropriation for grant awards is \$879,000 for each year of the 1995-97 biennium.

The rules identify who may apply for a grant, describe the application process, provide for preliminary review of applications by the Department for compliance with format and content requirements set out in the relevant request for proposals (RFP), provide for evaluation of applications by one or more review committees appointed by the Department and specify 14 criteria for use in that final review, note that the Department will award grants based on the recommendations of the review committee or committees and taking into consideration other specified factors and describe the awards process and conditions that are imposed when grants are awarded.

Publication Date: December 5, 1995
Effective Date: December 5, 1995
Expiration Date: May 4, 1996
Hearing Date: January 16, 1996
Extension Through: July 2, 1996

2. Rules adopted creating **ss. HSS 111.04 (2m) and 112.04 (3m)**, relating to authorized actions of emergency medical technicians—intermediate and paramedic.

Finding of Emergency

The Department of Health and Social Services finds that an emergency exists and that the adoption of rules is necessary for the immediate preservation of the public peace, health, safety or welfare. The facts constituting the emergency are as follows:

Actions that emergency medical technicians (EMTs) are authorized to carry out in providing emergency medical care in prehospital and interfacility settings are now specified in s. 146.50 (6m), Stats. A recent session law, 1993 Wis. Act 251, repealed that statute effective January 1, 1996 and directed the Department to have rules in place on that date that specify what those actions are.

The Department has separate chapters of rules for licensing EMTs—basic, EMTs—intermediate and EMTs—paramedic. This emergency order amends ch. HSS 111, rules for licensing EMTs—intermediate, and ch. HSS 112, rules for licensing EMTs—paramedic, to specify the actions that EMTs—intermediate and EMTs—paramedic may carry out.

Through separate permanent rulemaking orders, the Department is revising chs. HSS 111 and 112 in their entirety in order to specify the authorized actions of EMTs—intermediate and EMTs—paramedic and, at the request of the new Emergency Medical Services Board under s. 146.58, Stats., to update the chapters. However, those rulemaking orders have not yet been transmitted to the Legislative Council for review and therefore will not likely take effect until July 1, 1996 at the earliest. Consequently, the Department, in order to have the rules that specify the authorized actions of EMTs—intermediate and EMTs—paramedic in effect by January 1, 1996, when s. 146.50 (6m), Stats., will be repealed, is publishing the authorized actions subsections of the proposed revised permanent rules by this emergency order. This must be done because s. 146.50 (6n), Stats., which takes effect on January 1, 1996, provides that EMTs—intermediate and EMTs—paramedic may undertake only those actions that are authorized in rules promulgated by the Department. If those rules are not in effect on that date, ambulance services will not be able to provide emergency medical services using EMTs—intermediate or EMTs—paramedic and consequently there will be reduced availability of emergency medical services and a threat to public safety.

Publication Date: December 27, 1995
Effective Date: January 1, 1996
Expiration Date: May 30, 1996
Hearing Date: March 1 & 8, 1996
Extension Through: July 28, 1996

EMERGENCY RULES NOW IN EFFECT (2)

Health & Social Services

(Economic Support, Chs. HSS 200—)

1. Rules adopted revising **ch. HSS 201**, relating to a benefit cap pilot project under the AFDC program.

Exemption From Finding of Emergency

The Legislature in s. 12 (1) of 1995 Wis. Act 12 permitted the Department to promulgate the rules required under s. 49.19 (11s), Stats., as created by Act 12, by using emergency rulemaking procedures but without having to make a finding of emergency. They will take effect on January 1, 1996.

Analysis Prepared by the Department of Health & Social Services

Under s. 49.19, Stats., a family can apply and be determined eligible for the Aid to Families with Dependent Children (AFDC) program. If a family is determined eligible, the AFDC benefit amount is based, in part, on family size. The maximum amount of AFDC benefits a family can receive currently increases when an additional child is born.

On January 1, 1996, Wisconsin will implement the AFDC Benefit Cap Demonstration Project, authorized under s. 49.19 (11s), Stats., as created by 1995 Wis. Act 12. The purpose of this demonstration is to test whether eliminating the increase in the AFDC grant when an additional child is born will encourage families on welfare to delay having more children until they are financially able to support them.

Under the demonstration project, a family will not receive an automatic increase in the AFDC grant when an additional child is born. Starting on January 1, 1996, a child born to a current or new

recipient more than ten month after first receipt of benefits will be counted in the family size for AFDC assistance standard purposes but not for purposes of benefit determination. An exception will be made for a child born as a result of rape or incest. The benefit cap will first apply to children born on or after November 1, 1996. A child born on or after that date, although not counted in the family size for the purpose of determining the amount of the grant, will be counted for Medical Assistance and food stamp purposes, and the family will be entitled to receive other social service assistance for the child.

These are the rules for implementation of the AFDC Benefit Cap Demonstration Project. The rules describe how the Department will choose AFDC recipients who must participate in the demonstration, and outline the Department's responsibilities in administering the demonstration project.

Publication Date: December 27, 1995
Effective Date: January 1, 1996
Expiration Date: May 30, 1996
Hearing Date: February 16, 1996
Extension Through: July 28, 1996

2. Rules were adopted revising **chs. HSS 201 and 206**, relating to pay for performance demonstration project under the AFDC program.

Exemption From Finding of Emergency

The Legislature in s. 12 (2) and (3) of 1995 Wis. Act 12 permitted the Department to promulgate the rules required under s. 49.193 (3m) and (9m), Stats., as created by Act 12, by using emergency rulemaking procedures but without having to make a finding of emergency. They will take effect on March 1, 1996.

Analysis Prepared by the Department of Health and Social Services

Under s. 49.19, Stats., families inquiring about the Aid to Families with Dependent Children (AFDC) program are immediately encouraged to apply for assistance without exploring possible alternatives to welfare. Once determined eligible, many families come to consider the AFDC program a program of long-term financial support, sometimes spanning generations. Yet AFDC was originally meant to be a temporary, emergency program.

Wisconsin has obtained approval from the Food and Consumer Service of the U.S. Department of Agriculture and from the Administration for Children and Families of the U.S. Department of Health and Human Services to conduct a Pay for Performance (PFP) demonstration project beginning March 1, 1996. The major objective of the Pay for Performance demonstration project is to focus on freedom from public assistance by encouraging immediate attachment to the work force and helping families explore alternatives to AFDC before becoming dependent on AFDC. The demonstration project will be conducted statewide except in Dane, Dodge, Jefferson and Waukesha counties. In those counties individuals may be assigned to a control group which will be exempt from the demonstration project requirements to permit evaluation of the demonstration project. Statutory authority for the Department to operate two related demonstration projects, Self-Sufficiency First and Pay for Performance, was included in 1995 Wis. Act 12. Under the federal government's terms and conditions of approval for demonstration project, the Department is now calling the combined project Pay for Performance.

The first component of the Pay for Performance demonstration project encourages alternatives to AFDC through services of a financial planning resource specialist (FPRS) and up-front job search. This component is directed at helping applicants identify alternatives to AFDC, facilitating immediate orientation and referral to the Job Opportunities and Basic Skills (JOBS) program and requiring job search before receiving AFDC. Cooperation is made an AFDC eligibility requirement. An individual who fails without good cause to cooperate with these requirements will be ineligible to receive AFDC benefits for himself or herself and his or her family.

For an individual who becomes an AFDC recipient after fulfilling the applicant job search requirements, there is a second component of the Pay for Performance demonstration project. This requires the JOBS case manager to design an employability plan for the recipient that focuses on employment at the earliest opportunity and requires the recipient to participate in a set number of hours of participation in JOBS program activities or work to maintain AFDC eligibility. Failure, without good cause, to maintain participation as assigned will result in sanctions in the next possible month based on the number of hours missed without good cause multiplied by the federal minimum wage. Failure to participate in at least 25% of the assigned hours will result in no AFDC benefits being paid for that month and a reduction to \$10 in food stamp benefits.

These are the rules for the implementation of the Pay for Performance demonstration project.

Publication Date: March 1, 1996
Effective Date: March 1, 1996
Expiration Date: July 29, 1996
Hearing Date: April 16, 1996

EMERGENCY RULES NOW IN EFFECT

Industry, Labor & Human Relations (Uniform Dwellings, Chs. ILHR 20-25)

Rules adopted revising **chs. ILHR 20 and 21**, relating to one- and two-family dwellings constructed in flood hazard zones.

Finding of Emergency

The Department of Industry, Labor and Human Relations finds that an emergency exists and that the adoption of the rule is necessary for the immediate preservation of public health, safety and welfare. The facts constituting the emergency are as follows:

The Federal Emergency Management Agency (FEMA) has informed some municipalities that it will no longer allow variances to a local ordinance that prohibits the construction of homes in flood fringe areas where the foundation extends below the base flood elevation. FEMA regulations allow this type of construction in some locations but require the construction to meet a suitable building code. The Uniform Dwelling Code, which regulates new home construction in Wisconsin, has never addressed this issue. FEMA's actions have halted some residential projects, causing serious financial hardship for those affected Wisconsin builders and residents.

The proposed rules add requirements to the Uniform Dwelling Code for construction in flood fringe areas in order to meet FEMA requirements. The primary source of these rules is the National

Building Code published by Building Officials and Code Administrators International, Incorporated (BOCA).

Publication Date: May 8, 1996
Effective Date: May 8, 1996
Expiration Date: October 5, 1996

EMERGENCY RULES NOW IN EFFECT

Industry, Labor & Human Relations

**(Building & Heating, etc., Chs. ILHR 50–64)
 (Multi-Family Dwellings, Ch. ILHR 66)**

Rule adopted delaying the effective date of a rule revision to portions of **chs. ILHR 50 to 64 and 66**, relating to energy efficiency.

Note: A lawsuit has been filed challenging the validity of this emergency rule action.

Finding of Emergency

The Department of Industry, Labor and Human Relations finds that an emergency exists and that the adoption of a rule is necessary for the immediate preservation of public health, safety and welfare. The facts constituting the emergency are as follows:

1. On August 8, 1995, the Department adopted revised rules relating to ventilation and energy conservation in public buildings and places of employment. The purpose of these rules was to improve indoor air quality in buildings and to comply with the federal Energy Policy Act of 1992 which requires all states to revise their commercial building codes to meet or exceed the American Society of Heating, Refrigerating and Air-Conditioning Engineers/Illuminating Engineering Society (ASHRAE/IES) standard 90.1–1989. The rules went into effect on April 1, 1996.

2. Information has been recently provided to the Department that indicates that two of the provisions of the rules will cause excessive costs for building owners without commensurate benefit.

3. The emergency rule is being promulgated to avoid economic hardship caused by imposing unnecessary building construction and operating costs on building owners and operators.

Emergency Rule Analysis

The emergency rule will delay the effective date of the Energy Conservation related and Heating, Ventilating and Air Conditioning related rules for one year to give the Department and its advisory committee time to study the effect of the rules and make any necessary changes.

Publication Date: April 6, 1996
Effective Date: April 6, 1996
Expiration Date: September 3, 1996
Hearing Date: May 28, 1996

EMERGENCY RULES NOW IN EFFECT

Industry, Labor & Human Relations

(Unemployment Compensation, Chs. ILHR 100–150)

Rules adopted creating **s. ILHR 127.035**, relating to a limited waiver of work search requirement.

Finding of Emergency

The department of industry, labor and human relations finds that an emergency exists within the state of Wisconsin and that a rule is necessary for the immediate preservation of the public peace, health, safety or welfare. A statement of the facts constituting the emergency is:

Under s. 108.04(2)(b), Stats., the requirements for searching for work, as a condition of eligibility for unemployment insurance benefits, are to be prescribed by rule of the department. The statute further provides that the department may by general rule waive those requirements under certain conditions to be stated by the department. ILHR 127.02(2) allows the department to waive a claimant's work search requirement if she or he has been laid off from work but has a reasonable expectation of reemployment by an employer within 12 weeks after the week in which a claim is filed for unemployment insurance benefits.

On or about January 6, 1996, the Stella Foods plant in Lena, WI burned down. As a result, most of the workers were temporarily laid off. The company committed to rebuilding and reopening the plant. 35% of the plant was reopened after cleaning and about half the workers were recalled. The other 65% of the plant is being rebuilt. The company originally expected to be able to recall all or most workers within approximately 12 weeks. As a result, a work search waiver was granted to these claimants. Due to the vagaries of construction scheduling, especially during the winter months in Wisconsin, the rehire dates will be later than originally anticipated. The company expects to be able to open a line in part of the new construction in June or July of 1996 and will recall additional workers at that time. The company expects to be able to recall all workers by Labor Day.

Lena's population is approximately 590. The Stella Foods plant is a major employer in the Lena/Oconto Falls labor market, providing approximately 10% of all jobs in that labor market. Half of the jobs available with the plant remain unfilled. This constitutes 5% of all the jobs in that labor market. The unemployment rate in Oconto county before this fire was already 7.6%.

The department believes that the number of affected employees and the nature of the labor market in the Lena/Oconto Falls area makes it very unlikely that any substantial number of affected Stella Foods employees would be able to obtain suitable alternative work as a result of customary work search activities.

The existing permanent rule relating to work search requirements does not provide for waiver of the requirements in these circumstances. The department believes that it is necessary to promulgate this emergency rule in order to avoid wasting administrative funds and to avoid the hardship for other employers in the Lena/Oconto Falls area which will occur if this number of employees in this small labor market area are required to repeatedly canvass such other employers in order to comply with customary work search requirements. Other employers' hiring of those temporarily laid off due to the fire could also impose a hardship on other unemployed individuals in the labor market who do not have any such assurance of being recalled to their former jobs.

Publication Date: April 15, 1996
Effective Date: April 15, 1996
Expiration Date: September 12, 1996
Hearing Date: May 28, 1996

EMERGENCY RULES NOW IN EFFECT (2)

Insurance

1. Rules adopted creating **s. Ins 18.13 (5)**, relating to cost-containment rules.

Finding of Emergency

The Commissioner of Insurance finds that an emergency exists and that promulgation of an emergency rule is necessary for the

immediate preservation of the public peace, health, safety or welfare. The facts constituting the emergency are as follows:

The rule permits the Health Insurance Risk-Sharing Plan (HIRSP) Board to create a network of providers that have agreed to give discounts in addition to the mandatory discount of 10%. This rule is necessary to implement cost-containment measures allowed by statute. These measures become necessary to help control costs that have threatened a funding crisis for the HIRSP program. That funding crisis poses a potentially deleterious effect upon HIRSP policyholders and the insurance industry.

Publication Date: January 8, 1996
Effective Date: January 8, 1996
Expiration Date: June 6, 1996
Hearing Date: March 1, 1996
Extension Through: August 4, 1996

- Rules adopted revising **ch. Ins 17**, relating to annual patients compensation fund and mediation fund fees for the fiscal year beginning July 1, 1996.

Finding of Emergency

The commissioner of insurance (commissioner) finds that an emergency exists and that promulgation of this emergency rule is necessary for the preservation of the public peace, health, safety or welfare. The facts constituting the emergency are as follows:

The commissioner was unable to promulgate the permanent rule corresponding to this emergency rule, clearinghouse rule no. 96-045, in time for the patients compensation fund (fund) to bill health care providers in a timely manner for fees applicable to the fiscal year beginning July 1, 1996. The permanent rule was delayed pending legislative action on Senate Bill 378 which, if passed, would have resulted in a lowering of the fund fees originally proposed by the fund's board of governors. Senate Bill 378 was tabled by the assembly on May 8, 1996, before it adjourned for the year on May 13, 1996.

The commissioner expects that the permanent rule will be filed with the secretary of state in time to take effect September 1, 1996. Because the provisions of this rule first apply on July 1, 1996, it is necessary to promulgate the rule on an emergency basis. A hearing on the permanent rule, pursuant to published notice thereof, was held on April 18, 1996.

Publication Date: May 28, 1996
Effective Date: May 28, 1996
Expiration Date: October 24, 1996

EMERGENCY RULES NOW IN EFFECT (4)

Natural Resources

(Fish, Game, etc., Chs. NR 1--)

- Rules were adopted amending **s. NR 20.03 (1) (q) 2. b.** and creating **s. NR 20.036**, relating to sturgeon spearing in Lake Winnebago.

Finding of Emergency

The Department of Natural Resources finds that an emergency exists and rules are necessary for the immediate preservation of the public peace, health, safety or welfare. A statement of the facts constituting the emergency is:

Department Fisheries staff have recently shown that due to increasing spearing pressure and increasing spearer success rates the Winnebago lake sturgeon population, particularly the mature female portion, is experiencing overexploitation. Improvements in system

water quality along with optimal weather conditions have provided clear water and optimal spearing conditions in recent years resulting in three of the four highest harvests on record in recent years resulting in three of the four highest harvests on record since 1990. To prevent the possible overharvest of sturgeon during the 1996 spearing season, an Emergency Order is required.

Publication Date: February 2, 1996
Effective Date: February 2, 1996
Expiration Date: July 1, 1996
Hearing Date: March 12, 1996

- Rules were adopted revising **ss. NR 1.15 (2) (a), 10.104 and 10.28**, relating to deer hunting permits.

Finding of Emergency

The emergency rule procedure, pursuant to s. 227.24, Stats., is necessary and justified in establishing rules to protect the public welfare. There is great public interest in white-tailed deer and their management in Wisconsin. Failure to adopt these rules would require that the 1996 antlerless deer quotas be based upon existing overwinter population goals that do not reflect the public interest in deer management. There has been more than a year of comprehensive public involvement in developing this rule.

Publication Date: April 15, 1996
Effective Date: April 15, 1996
Expiration Date: September 12, 1996
Hearing Date: May 20, 1996

- Rules adopted amending **s. NR 20.038**, relating to special size and bag limits for the Lac du Flambeau reservation.

Finding of Emergency

The Department of Natural Resources finds that an emergency exists and rules are necessary for the immediate preservation of the public peace, health, safety or welfare. A statement of the facts constituting the emergency is:

The department has recently come to an interim agreement with the Lac du Flambeau band regarding their off-reservation harvest goals. This rule change is needed for the 1996 fishing season in order to meet our obligation in the agreement, thus, an Emergency Order is required. This agreement will promote preservation and protection of public peace, safety, and welfare in the ceded territory of Wisconsin by minimizing regional social and economic disruption known to be associated with reductions in walleye bag limits on off-reservation waters. Pursuant to litigation arising from *Lac Courte Oreilles v. Voight*, 70 F. 2d 341 (7th Cir. 1983), the Chippewa bands of Wisconsin, which includes the Lac du Flambeau, have the right to take walleye from off-reservation waters using efficient methods such as spearing and netting. The Lac du Flambeau have made initial 1996 harvest declarations for off-reservation lakes that are sufficiently high to require the department to reduce the daily bag limit to 0 on several lakes, consistent with the formula of s. NR 20.037. The Lac du Flambeau have agreed to reduce harvest declarations to a level commensurate with a daily bag limit of 2 walleye this year and a daily bag limit of 3 in future years, provided that the state reduces its daily bag limits for walleye to 3, with a minimum length limit of 18" and increase the muskellunge minimum length limit to 40" on waters within the Lac du Flambeau reservation. The state has agreed to do so in order to provide more socially acceptable sports fishing opportunity on off-reservation waters. This will lessen tensions caused by severely reduced bag limits and will assist local businesses dependent on the sport fishery.

Publication Date: May 3, 1996
Effective Date: May 3, 1996
Expiration Date: September 30, 1996
Hearing Date: June 12, 1996

4. Rules were adopted revising **chs. NR 10 and 11**, relating to the 1996 deer hunting seasons.

Finding of Emergency

The emergency rule procedure, pursuant to s. 227.24, Stats., is necessary and justified in establishing rules to protect the public welfare. This emergency rule is needed to control deer populations that are significantly over goal levels in order to prevent substantial deer damage to agricultural lands and to minimize deer nuisance problems, thereby protecting the public peace, health, safety or welfare. Normal rule-making procedures will not allow the establishment of these changes by August 1. Failure to modify our rules will result in the failure to provide hunting opportunity and comply with administrative rules.

Publication Date: May 3, 1996
Effective Date: August 12, 1996
Expiration Date: January 9, 1997
Hearing Date: June 11, 1996

EMERGENCY RULES NOW IN EFFECT

Department of Revenue

Rules adopted revising **ch. Tax 18**, relating to the 1996 assessment of agricultural property.

Finding of Emergency

The Wisconsin Department of Revenue finds that an emergency exists and that a rule is necessary for the immediate preservation of the public peace, health, safety or welfare. A statement of facts constituting the emergency is:

1995 Wis. Act 27, published July 28, 1995, changes the way agricultural land is valued for property tax purposes. Under the law, the assessed value of each parcel of agricultural land in 1996 is the same as the assessed value of that parcel in 1995. Buildings and improvements to agricultural land continue to be assessed at their full market value.

Since 1995 Wis. Act 27 affects assessments as of January 1, 1996, an emergency rule is necessary for the efficient and timely assessment of agricultural land in 1996.

In particular, the rule addresses the following needs:

- repealing obsolete terms defined by rule
- defining the terms “land devoted primarily to agricultural use”, “other”, and “parcel of agricultural land”
- providing instructions for assessing “agricultural land” and “other” land classifications in 1996.

This rule is therefore promulgated as an emergency rule and shall take effect upon publication in the official state newspaper. Certified copies of the rule have been filed with the Secretary of State and the Revisor of Statutes, as provided in s. 227.24, Stats.

Publication Date: December 6, 1995
Effective Date: December 6, 1995
Expiration Date: May 5, 1996
Hearing Date: January 25, 1996
Extension Through: July 3, 1996

EMERGENCY RULES NOW IN EFFECT (2)

Department of Transportation

1. Rule was adopted amending **s. Trans 6.04 (1) (e)**, relating to the administration of the federal section 18 program.

Finding of Emergency

The Department of Transportation finds that an emergency exists and that a rule is necessary for the immediate preservation of the public welfare. A statement of the facts constituting the emergency is that without a Governor's certification that the intercity bus service needs of the state are being adequately met, many small urban and rural transit systems will see sharp, unplanned reductions in the amount of financial assistance they receive in 1996. These cuts may result in service reductions, fare increases and the need for local governments to cover a higher share of operating losses than has been budgeted.

Publication Date: March 13, 1996
Effective Date: March 13, 1996
Expiration Date: August 10, 1996
Hearing Date: April 17, 1996

2. Rules adopted creating **Ch. Trans 258**, relating to seed potato overweight permits.

Finding of Emergency

The Department of Transportation finds that an emergency exists and that a rule is necessary for the immediate preservation of the public safety and welfare. Although the Department will pursue promulgation of this rule through normal procedure, the Department finds an emergency exists for the following reasons: (1) seed potatoes are transported to market between late February and April. Promulgation of an administrative rule through the normal process would not be timely for this planting season; (2) the Department believes the Legislature intended the provisions of 1995 Wis. Act 163 to be effective during this spring planting season. In order to promulgate rules in time for this spring growing season, this emergency process must be employed. The statute does not specify truck configurations, such as trailer length, axle spacing and weight distribution, but delegates responsibility to the Department. Without specified configurations vehicles that will impose damage to the roadway will be eligible for permits; and (3) the statute confers authority to identify an alternate route through rule but does not specify the alternate route. A suitable alternate route should be in place prior to the issuance of permits to allow diversion of permitted loads if any of the low weight bridges along the primary route manifests overstress. Closure of any of those bridges would substantially impede movement of other legal weight traffic in an area with few alternate routes.

Publication Date: April 3, 1996
Effective Date: April 3, 1996
Expiration Date: August 31, 1996
Hearing Date: May 13, 1996

STATEMENTS OF SCOPE OF PROPOSED RULES

Banking

Subject.

Deposits in other financial institutions. (Ch. Bkg 4)

Description of the objective of the rule.

The objective is to repeal ch. Bkg 4.

Description of existing relevant policies and new policies proposed to be included in the rule and an analysis of policy alternatives.

Chapter Bkg 4 limits the amount a state-chartered bank may invest in the deposits of other institutions. Generally, the amount is limited to 20% of the bank's capital stock and surplus, except the percentage may be increased up to 50% by designation of the bank's board of directors.

1995 Wis. Act 336 ("the Act") was enacted on May 2, 1996, and becomes effective July 1, 1996. The Act repeals and recreates ch. 221 of the statutes. This represents a total modernization and streamlining of Wisconsin's banking statutes. Certain provisions of the existing Administrative Code are incorporated into the new provisions of ch. 221. The provisions of existing ch. Bkg 4 are incorporated into s. 221.032 (6), Stats., which is created by the Act.

Statutory authority for the rule.

SS. 220.02 (2), and 227.11 (2), Stats.

Estimate of the amount of time state employees will spend to develop the rule and other resources necessary to develop the rule.

Estimated time to be spend by state employees— 40 hours. No other resources are necessary.

Employee Trust Funds

Subject.

Forms of payment to be used when the Department makes an automatic distribution of a Wisconsin Retirement System (WRS) account to comply with federally-mandated distribution requirements to a participant or alternate payee whose life expectancy is less than 15 years; deadline to apply to receive certain WRS death benefits in the form of a monthly annuity. This rule is authorized by 1995 Wis. Act 302, relating to WRS compliance with federal law regarding qualification as a public retirement system under the Internal Revenue Code.

DESCRIPTION OF POLICY ISSUES

Objectives of the rule.

1. Specify form of payment for automatic distribution of a WRS account to meet federally-mandated distribution requirements when a participant's or alternate payee's life expectancy is less than 15 years.
2. Specify deadlines within which a beneficiary must apply for a continuation of a deceased participant's monthly annuity to avoid automatic distribution of the benefit as a lump sum.

Policy analysis.

Federal law requires participants in qualified retirement plans to begin receiving distributions from their accounts by their "required beginning date," i.e., April 1 of the calendar year following the year in which they attain age 70.5 or retire, whichever is later. The period of the distribution cannot be greater than the participant's life expectancy (or that of the participant and a named joint survivor) as determined under federal rules. Prior to Wis. Act 302, state statutes did not permit the Department to enforce this requirement. Under Act 302, the Department will automatically begin distribution to participants who have not voluntarily applied for a benefit by

December 31 of the year in which they turn age 69.5 and to alternate payees who have not voluntarily applied by December 31 of the year in which the participant attains or would have attained age 69.5. §40.23 (4) (c), Stats., permits the Department to distribute the account in the form of a life annuity with 180 payments guaranteed or in some other form as determined by the Department by rule.

An alternative payment form is required for participants who continue covered employment until age 72 or later or who have deferred application for benefits and are now age 72 or older. In these situations the 180-payments guaranteed option will not meet federal distribution requirements because the guaranteed duration of payments exceeds the participant's life expectancy. Therefore the rule will define the alternative forms of payments that will be used. These could include a lump sum meeting the threshold specified in §40.25 (1) (a), Stats., a life annuity with less than 180 payments guaranteed, depending on the individual's life expectancy, or a straight life annuity. For additional accounts under §40.05 (1) (a) 5., Stats., only, the alternative forms could include an annuity certain of less than 180 payments. Current law permits the participant to change the form of payment to any other available form (e.g., a joint survivor annuity) which meets the minimum distribution requirement by notifying the Department within 60 days after the date of the first payment.

Upon the death of an annuitant who was receiving an annuity which provided a guaranteed number of monthly payments, if at least twelve guaranteed payments remain, the beneficiary may choose between receiving a lump sum or continuing the monthly annuity for the remainder of the guarantee period. Federal law requires that the distribution to a beneficiary continue to be made at least as rapidly as the manner of distribution selected by the annuitant. If a beneficiary fails to apply for the continuation of the monthly annuity in a timely fashion, the Department must initiate an automatic distribution of the benefit in a lump sum. The proposed administrative rule will set the deadline for a beneficiary to apply for continuation of the monthly annuity. Beneficiaries who do not so apply will receive an automatic distribution in a lump sum.

Policy Alternatives to the proposed rule.

Both of the objectives of this rule are specifically authorized by 1995 Wis. Act 302 and are necessary to ensure compliance with federal tax laws. If no rule is promulgated, the qualified status of the WRS could be jeopardized.

The Department must establish a specific form of payment for an automatic distribution when the default option (a life annuity with 180 payments guaranteed) exceeds minimum distribution requirements. Two such methods would be to pay out the account as a lump sum or as a life annuity for the participant's life only. However, a lump sum payment could entail significant tax penalties and the amount is currently limited §40.25 (1) (b), Stats. A life annuity for the participant's life only could result in significant forfeitures in the event of the premature death of the participant. Criteria for the method to be used when participants and alternate payees are over age 71 include: administrative simplicity; avoiding large taxable lump sum payments, providing income for the life-time of the participant; and protecting a portion of the account for the spouse or other beneficiaries in the event of the premature death of the participant. The alternate form of distribution in the proposed rule will be designed to meet these criteria.

The Department must establish a method of ensuring that the guaranteed payments remaining after the death of an annuitant are paid out at least as rapidly as under the payment option selected by the annuitant. Therefore beneficiaries must be given a deadline to apply for continuation of the monthly payments, after which they will receive an automatic lump-sum distribution. A deadline will be proposed which will allow the Department sufficient time to locate beneficiaries and give beneficiaries adequate time to make a decision regarding benefit continuation.

Statutory authority for rule-making.

§40.23 (4) (c) and (d) as affected by 1995 Wis. Act 302, and 40.03 (2) (i), Stats.

Staff Time Required.

The Department estimates that state employees will spend 60 hours to develop this rule.

Employee Trust Funds**Subject**

Conditions under which the Department will treat payments received under a court order or compromise settlement as earnings for retirement benefit purposes. This proposed rule is authorized by 1995 Wis. Act 302, relating to Wisconsin Retirement System (WRS) compliance with federal law regarding qualification as a public retirement system under the Internal Revenue Code.

DESCRIPTION OF POLICY ISSUES**Objectives of the rule.**

The proposed rule will define the circumstances under which WRS benefits may be included within a remedy for an employment dispute and state the elements required for the Department to implement such a remedy.

Policy analysis.

Improper terminations, disciplinary actions or wage disputes sometimes result in court orders or arbitration awards which grant the appellant reinstatement, restoration of benefits, and/or back wages. 40.02 (22) (b) 9., Stats., excludes from earnings for WRS purposes any payments for damages, attorney fees, interest or penalties paid under court judgement or by compromise settlement to satisfy a grievance or wage claim. However, prior to May 15, 1996, if the order or settlement directed that salary be paid for a specific period of time, the salary was considered covered earnings even if offset by amounts earned from other sources. Retirement contributions were paid on these earnings and creditable service was granted, thus making the reinstated employee whole with regard to WRS benefits for the period in dispute.

Federal tax law requires that retirement contributions be based on taxable compensation. 1995 Wis. Act 302 repealed the provision in 40.02 (22) (b) 9., Stats., which allowed salary payments arising from employment disputes to be considered as WRS earnings. Instead, the statute now authorizes the Department to provide by rule that specific types of payment included in a judgement or settlement qualify as earnings for WRS purposes. Under the statute as amended, eligible payments are restricted to additional wages paid to a continuously participating employee and salary paid to a participant for any period of improper termination of participating employment. The payment must be treated as taxable income and must be consistent with previous payments for hours of service rendered by the employee.

The statute as amended prevents settlements in which retirement contributions and WRS service are reported although taxable compensation was not actually paid.

Policy alternatives to the proposed rule.

In the absence of a rule, courts and arbitrators are prevented from ordering WRS service and/or earnings to be reported for a period of termination or underpayment of wages when an employee prevails in an employment dispute. An absolute prohibition on accepting such orders might save the Department some administrative effort and would not be out of compliance with federal tax rules. However, it is likely to result in unnecessary harm to other parties. In some cases, the employer will be held liable for increased direct penalties to compensate for the employee's loss of WRS benefits. In others, the employee will suffer an irreparable loss of retirement and related insurance benefits even though legally vindicated. Therefore, the Department has chosen to promulgate the rule.

Statutory authority for rule-making.

§40.02 (22) (b) 9. as affected by 1995 Wis. Act 302; and 40.03 (2) (i), Stats.

Staff time required.

The Department estimates that state employees will spend 50 hours to develop this rule.

Employee Trust Funds**Subject.**

Withdrawal of funds invested in the Public Employee Trust Fund by a separate retirement system as permitted by s.40.03 (1)(n) and (2)(q), Stats.

DESCRIPTION OF POLICY ISSUES.**Objectives of the rule.**

The City of Milwaukee is one of only two separate retirement systems which has invested its funds in the Public Employee Trust Fund, as permitted under Wis. Stat. § 40.03 (1)(n) and (2)(q) and Wis. Adm. Code § ETF 10.12. The City of Milwaukee retirement system desires to withdraw its funds and has begun doing so. The purpose of this rule is to potentially permit the City of Milwaukee to withdraw its funds more rapidly from the Public Employee Trust Fund than is currently permitted, provided the DETF Secretary determines that no harm would result. The proposed rule is not limited in its application to the City of Milwaukee and would apply to any separate retirement system investing in the Public Employee Trust Fund as permitted under Wis. Stat. § 40.03 (1)(n) and (2)(q). The proposed rule would thus potentially permit greater flexibility in making withdrawals than is now allowed.

Policy analysis.

The present policy is set out in s. ETF 10.12 (4)(c), Wis. Adm. Code, which limits withdrawals as follows:

Withdrawals by a separate retirement system shall be limited in any calendar month to the greater of 5% of the system's balance on deposit or \$2 million.

This means that if an account balance exceeds \$40 million, the maximum withdrawal is 5% of the balance. As each withdrawal is made, the balance falls and the 5% limit decreases, too. Once the balance on deposit reaches \$40 million, withdrawals at a steady \$2,000,000 per month may be made. Thus, under the present rule, it would take over 5 years for a separate retirement system with \$374 million on deposit (as the City of Milwaukee had in December 1995 when it began making withdrawals) to fully withdraw its investment from the Trust Fund as quickly as possible. This time estimate is actually overly optimistic, since it ignores interest earned on the remaining balance which would be credited to the account during the 5 years, thereby prolonging the time needed to close the account.

Protection against extraordinarily large withdrawals is necessary, to avoid imprudently draining the Trust Fund's cash on hand or interfering with long-range investment plans by forcing the premature sale of investments. However, there is no reason to enforce the present 5% or \$2 million limit if larger withdrawals could safely be made without harm to the Public Employee Trust Fund.

The proposed rule would allow the Secretary of the Department of Employee Trust Funds to permit more money to be withdrawn by a separate retirement system each month, provided the Secretary consulted prior to each monthly withdrawal with the Executive Director of the State of Wisconsin Investment Board and was satisfied that there would be no resulting harm to the Public Employee Trust Fund (i.e. no imprudent reduction of cash on hand and no premature liquidation of investments) and no harm to the Wisconsin Retirement System participants who have a beneficial interest in the Trust Fund and its earnings.

The proposed rule would also establish the minimum period of advance notice required for any withdrawal at 21 days (instead of the current requirement for 60 days notice of withdrawals in excess of \$10 million). Withdrawals would be expressly limited to one per month, paid on the first of a month, which codifies present practices.

Policy alternatives to the proposed rule.

(1) Take no action. This alternative would continue the existing restrictions on amounts that may be withdrawn by separate retirement systems. The existing restrictions of Wis. Adm. Code § ETF 10.12 (4)(c) have not resulted in harm to the Public Employee Trust Fund and could be left in place.

(2) Impose greater restrictions on withdrawals. This alternative would not be responsive to the wishes of the City of Milwaukee

separate retirement system. More importantly, there is no present evidence that more stringent restrictions on the amounts of withdrawals are necessary. Finally, it is also questionable whether more stringent withdrawal limits could be imposed with respect to investments already made.

Statutory Authority

S. 40.03(2)(q), Stats.

Staff time required.

The Department estimates that state employees will spend 12 hours to develop this rule.

Employee Trust Funds

Subject:

Procedures by which participating employees may reestablish forfeited service in the Wisconsin Retirement System (WRS) and deadlines for completing purchases of service authorized under chapter 40 of the Wisconsin statutes. A portion of this rule is authorized by 1995 Wis. Act 302, relating to WRS compliance with federal law regarding qualification as a public retirement system under the Internal Revenue Code.

DESCRIPTION OF POLICY ISSUES

Objectives of the rule.

Specify conditions under which a participating employee may reestablish a portion of his or her forfeited service; clarify that all service purchases under Chapter 40 must be completed on or before the date employment terminates.

Policy analysis.

§40.25 (6), Stats., permits participating employees who meet certain conditions to reestablish creditable service that was forfeited by a withdrawal of employee contributions. The cost to purchase each year of forfeited service is the percentage specified in §40.05 (1) (a), Stats., of the employee's average annual earnings based on the three highest years. s. 40.25 (6) (a) 2., Stats., requires that applications to reestablish creditable service must include all creditable service that has been forfeited, up to a maximum of ten years, but may not be more than the amount of creditable service that the employee has on the date of application. Section 20.15 (3), Wis. Adm. Code currently limits participants to one application to re-establish forfeited service. As a result, most participants wait until near retirement to purchase forfeited service.

1995 Wis. Act 302 limits annual contributions to the WRS to comply with Sec. 415 (c) of the Internal Revenue Code. Payments to reestablish forfeited service are included in the calculation of maximum contributions permitted in a given calendar year. Purchase of forfeited service will therefore be limited in any one calendar year. For many participants, it will be impossible to re-establish forfeited service under existing rules. Act 302 permits the Department to promulgate a rule on purchase of forfeited service to give participants the opportunity to purchase forfeited service without violating the Sec. 415 limits.

The rule will repeal Wis. Adm. Code §20.15 (3) and will modify administrative procedures for purchases of forfeited service. Topics to be addressed in the rule include minimum amounts of forfeited service which can be purchased in one calendar year and proration of service reestablished when a portion of the purchase cost exceeds the contribution limit and must be refunded. Incidental clarifications of the existing rule may also be included.

In addition to forfeited service, other types of service may be purchased by participating employees as authorized in §40.02 (17) and 40.25 (7), Stats. All of these purchases are subject to the federal Sec. 415 (c) contribution limits. 1995 Wis. Act 302 specifies that participants must apply to purchase other governmental service under s. 40.25 (7), Stats., before termination of employment as a participating employee. A new rule will clarify that all applications to purchase service under chapter 40 must be received by the Department on or before the date participating employment terminates.

Policy alternatives to the proposed rule.

Forfeited service purchased in any calendar year will be limited to comply with federal tax laws. Existing statutes and rules limit employees to one application and require them to apply for all of the forfeited service for which they are eligible. Without a new rule authorizing incremental purchases, the cost may exceed federal limits and prevent some employees from reestablishing any forfeited service.

Present statutes and rules allow participants to pay for forfeited service by using additional contributions. By planning well in advance and making annual additional contributions many participants can accumulate sufficient funds to purchase their forfeited service prior to retirement without violating federal contribution limits. However, additional contributions do not always meet employees' needs. Since the employee cannot access additional contributions in case of financial emergencies, some participants cannot afford to make significant additional contributions. Moreover, additional contributions are also subject to annual contribution limits, and thus it may not be possible for persons who are now close to retirement to save enough in additional contributions to complete their purchase. For these individuals, the proposed rule will permit purchase of a portion of the service which will otherwise be unavailable.

The general deadline for purchase of service under chapter 40 is implicit in the statutory language which permits only participating employees to make purchases.

Statutory authority for rule-making.

§40.25 (6) (a) 3. as affected by 1995 Wis. Act 302; and 40.03 (2) (i), Stats.

Staff time required.

The Department estimates that state employees will spend 80 hours to develop this rule.

Employee Trust Funds

Subject.

Signatures on Wisconsin Retirement System (WRS) documents by participants' attorneys-in-fact.

DESCRIPTION OF POLICY ISSUES

Objectives of the rule.

The change would permit the Department to accept signatures of agents holding a participant's power of attorney, whether statutory or non-statutory, provided the agent's powers include the transaction in question and the appointment is in effect. It is intended to bring the current rule into conformance with s. 243.10, Stats. the uniform statutory power of attorney legislation, to assist WRS participants who have appointed attorneys-in-fact using instruments other than the statutory power of attorney, and to facilitate submission of benefit applications, beneficiary designations, and other important documents to the Department of Employee Trust Funds.

Policy analysis.

Under §40.08 (9m), Stats., and ETF 10.75, Wis. Adm. Code and related administrative procedures, WRS participants are largely prevented from appointing an attorney-in-fact to handle WRS-related decisions in case of absence, emergencies, or future incompetence. Retirement, disability and insurance benefit applications can only be signed by the principal or, if the principal is a minor child or has been found by a court to be incompetent, by his or her court-appointed guardian. Important documents signed by a guardian must also be approved by the circuit court. Agents holding the principal's durable POA as described in §243.07, Stats., may sign some WRS documents, but the most important categories, benefit applications and beneficiary designations, are excluded.

In May 1992, the Legislature enacted a so-called "Statutory POA" provision, s. 243.10, Stats. This is uniform legislation which has been adopted in several other states besides Wisconsin. The statute allows individuals to appoint an agent to act with complete authority on a wide variety of matters, including insurance and annuity transactions, beneficiary transactions, and retirement plan transactions.

To comply with the 1992 legislation, the Department now accepts the signature of a Statutory POA in all circumstances. This means that

a Statutory POA can sign a WRS beneficiary designation or retirement application, or can approve an annuity option selection by the principal's spouse, provided that the principal granted those powers to the agent, that the appointment is in effect, and, in cases where the principal has become incompetent, that the appointment is durable. The Department is responsible for verifying that the appointment meets the requirements of a Statutory POA, including filing with the clerk of courts in the principal's and agent's counties of residence if required.

The proposed rule will expand on current policy and will provide that:

—In lieu of a principal's signature, signature by an agent holding a Statutory or non-statutory POA will be accepted for all purposes, provided: 1) the principal has not withheld power to act in the relevant area (e.g. insurance, beneficiary designations, retirement plan transactions); 2) for appointments dated more than six months in the past, the agent certifies that to the best of his or her knowledge the appointment remains in effect and the principal is still living. If the appointment is not durable, the agent must also certify that the principal has not been found incompetent. If the appointment takes effect only in case of the incompetence of the principal, the agent must certify to the incompetency.

—Before approving or acting on a document signed by a POA, the Department must receive the original or a copy of the signed, dated, and notarized letter of appointment. The Department shall determine whether the appointment is in effect, and whether the agent has power to act in the matter.

—The Department shall refuse to act on a document signed by an agent claiming to hold a principal's POA if it determines that the letters of appointment are no longer in effect, do not apply to the transaction, or are otherwise defective.

Policy alternatives to the proposed rule.

The Department must have a reasonable and reliable policy which defines acceptable signatures for benefit applications or other important WRS-related transactions. The existing rule, s. ETF 10.75, Wis. Adm. Code, is more restrictive than the uniform statutory power of attorney legislation and has been superseded by it. Therefore modification of the rule is necessary. Two alternatives were considered:

1. Accept only POAs which qualify as Statutory POAs, provided the appointment is in effect and includes the power to conduct the proposed transaction. The Department is responsible for determining whether a POA is statutory. Criteria include: the date of the appointment may not be earlier than May 14, 1992; the language of the instrument must be substantially the same as that in the statute; and instruments executed before March 26, 1994 must be on file with the clerk of courts in the principal's and the agent's counties of residence.

2. Accept any POA, whether Statutory or non-statutory, provided the appointment is in effect and includes the power to conduct the proposed transaction. This alternative meets the needs of persons who executed a POA instrument prior to May 14, 1992 or who did not use the language of the Statutory POA.

The second alternative was selected because it is simpler for participants to understand and responds to the reasonable expectations of persons who attempted to provide for future incapacity, disability, or incompetence by executing durable powers of attorney before May 14, 1992.

Statutory authority for rule-making.

§40.03 (2) (i), Stats.

Staff time required.

The Department estimates that state employees will spend 22 hours to develop this rule.

Funeral Directors Examining Board

Subject.

The sale of burial agreements funded with life insurance policies, granting rule-making authority and providing a penalty.

DESCRIPTION OF POLICY ISSUES

Preliminary objective.

To fulfill the mandate of 1995 Wis. Act 295.

Existing policies relevant to the rules.

Prior to 1995 Wis. Act 295, there was no legislation governing the sale of burial agreements which were funded by the proceeds of a life insurance policy. This Act was passed in order to ensure that the public is adequately safeguarded against unethical sales of poorly designed burial agreements and the insurance plans used to fund them. Accordingly, the Act contains a variety of consumer protections.

New policies that the rule proposes to include and provide an analysis of policy alternatives.

The Funeral Directors Examining Board is required to promulgate rules establishing requirements and procedures for funeral directors making reports and providing evidence of the following:

—Identity of any agent authorized by the licensed funeral director or operator of the funeral establishment to sell or solicit the sale of a burial agreement that is funded with the proceeds of a life insurance policy.

—That the agent meets the training requirements set by the board.

The board shall also promulgate rules establishing the following:

—Training requirements that an insurance intermediary must satisfy to sell or solicit the sale of a burial agreement.

—Minimum standards that an individual burial agreement must satisfy if it is funded with the proceeds of a life insurance policy.

—Minimum standards that a contract between an agent and an operator of a funeral establishment must satisfy to authorize the agent to sell or solicit the sale of a burial agreement funded with the proceeds of a life insurance policy on behalf of the operator of the funeral establishment.

—The form and content of written notice that a licensed funeral director, operator of a funeral establishment or agent of a licensed funeral director or operator of a funeral establishment is required to provide to the board when a consumer is terminating a trust and switching to a burial agreement funded by life insurance.

The board may promulgate rules establishing standards for marketing practices for a burial agreement that is funded with the proceeds of a life insurance policy, including standards for telephone solicitation of prospective purchasers. The rules promulgated for these standards may prohibit a method of telephone solicitation if the board determines that the prohibition is necessary to protect the public.

The board must also prepare and distribute a booklet that describes the differences between the two types of funding agreements *i.e.*, trusting vs. life insurance.

Statutory authority.

The board proposes to create rules under the authority of ss. 15.08 (5) (b) and 227.11, Stats., and s. 445.125 (3m) (b) 2 b and (j) 1. and 2., as created by 1995 Wis. Act 295.

Staff time required.

The board estimates 300 to 500 hours to create these rules.

Will this rule affect the budget, staff or uniform policies or procedures of the agency.

Per the fiscal estimate: There will be additional costs associated with the information the board is to provide to all funeral directors, but costs associated with this requirement are unknown at this time. Since the time the fiscal estimate was prepared, anticipated costs may be the following:

—Expenses associated with drafting, printing and mass distribution of the booklet.

—Staff training associated with monitoring and reviewing contracts.

—Continual updating of literature.

—Revisions to administrative rules.

—Additional time used to answer telephone calls relating to statute/rule and board procedure questions.

—On-going mailings to funeral directors and consumers relating to information changes.

—Possibility of additional board meetings to meet deadlines in law.

Insurance

Subject:

Life insurance illustrations model regulation. (SS. Ins 2.14 & 2.16)

Statement of the objective of the proposed rule.

The purpose of this regulation is to provide rules for life insurance policy illustrations that will protect consumers and foster consumer education. This rule is based upon the National Association of Insurance Commissioners ("NAIC") Model Regulation adopted on December 4, 1995.

Description of existing policies relevant to the rule and of new policies proposed to be included in the rule and an analysis of policy alternatives.

Current rules focus upon advertising generally and provide some disclosure requirements relating to illustrations. The proposed rule is much more specific and will give clearer guidance to insurers and agents and provide a more uniform "playing field" for the industry when life illustrations are utilized.

Statement of the statutory authority for the rule.

SS. 628.34 and 628.38, Stats.

Estimate of the amount of time that state employees will spend to develop the rule.

The rule has been developed by the NAIC so that staff time should be limited to 40 hours or less.

Insurance

Subject.

Rules concerning unfair trade practices, conflicts of interest and taking unfair advantage of customers by agents. (Ch. Ins 24)

Statement of the objective of the proposed rule.

This rule defines as unfair trade practice and prohibits conduct by insurance agents relating to financial transactions with customers, sales of living trusts, medical alert systems and conflicts of interest with customers.

Description of existing policies relevant to the rule and of new policies proposed to be included in the rule and an analysis of policy alternatives.

This rule addresses unfair trade practices not specifically prohibited under current rules. These new rules are made necessary by the changing characteristics of fraud and misleading sales tactics used by agents, especially on the elderly.

Statement of the statutory authority for the rule:

S. 628.34, Stats.

Estimate of the amount of time that state employees will spend to develop the rule:

20 hours.

Insurance

Statement of the objective of the proposed rule.

The establishment of minimum standards for benefits, claims payments, policy forms, marketing practices, compensation arrangements and reporting practices of life insurance policies sold in conjunction with prearranged funeral plans.

Description of policies relevant to the rule and of new policies proposed to be included in the rule and an analysis of policy alternatives.

The proposed rule will implement newly created legislation and does not replace any existing rules.

Statement of the statutory authority for the rule.

S. 632.41 (2) (b) 2, Stats., directs the Commissioner to establish minimum standards for life insurance policies sold in conjunction with preneed funeral plans.

Estimate of the amount of time that state employees will spend to develop rule and a description of other resources necessary to develop the rule.

Estimated staff time may be as much as 200 hours to develop and draft this comprehensive rule.

Natural Resources

Subject.

General house cleaning. (Ch. NR 45)

Description of policy issues to be resolved, include groups likely to be impacted or interested in the issue.

In March of 1994 Manual Code 2506.1 established the process and schedule for making changes to ch. NR 45, Wis. Adm. Code. This manual code requires informing the Natural Resources Board and Department Secretary when the process for collecting such changes begins. It is our intent to begin the process which will eventually lead to a request for approval to go to public hearing at the January, 1997 NRB meeting. Most of the changes that are being considered are house cleaning in nature. These house cleaning changes correct errors in cross-references, renumbering in proper order, provide proper names to Department properties and update procedures due to statute changes.

Statutory authority for the rules.

SS. 23.09 (2), 23.091 (3), 23.28 (3), 27.01 (2) (j), (9), (10) (b), (f) and (h) and 349.234 (2), Stats.

Anticipated time commitment.

124 hours.

Natural Resources

Subject.

Sharp-tailed grouse hunting rules.

Description of policy issues to be resolved, include groups likely to be impacted or interested in the issue.

The Department has been given authority to regulate sharp-tailed grouse hunter numbers in order to prevent over-harvest. Sharp-tailed grouse management zones and permit level determining criteria will be established with this rule. Similar to wild turkey hunting, permits and tags will be issued to applicants by random drawing. The bag and possession limits will equal the number of tags the hunter possess. Each tag will have to be validated and affixed to the harvested sharp-tailed grouse prior to the transportation. The Sharp-tailed Grouse Society and the Conservation Congress support this action.

Statutory authority for the rules.

S. 29.174, Stats.

Anticipated time commitment.

28 hours.

Natural Resources

Subject.

Sport and commercial fishing for yellow perch in Lake Michigan. (Chs. NR 20 and 25)

Description of policy issues to be resolved, include groups likely to be impacted or interested in the issue.

This rule restricts sport and commercial harvest of yellow perch from Lake Michigan. It addresses the problem of poor reproduction by the yellow perch population. Sport and commercial fishers and businesses serving sport and commercial fishers will be interested in this issue.

Statutory authority for rule.

SS. 29.085, 29.174 (3) & (4a), 29.33, 227.11 (2) (a) and 227.24, Stats.

Anticipated time required.

138 hours.

Natural Resources**Subject.**

Trial financial incentive program to retire Lake Superior Commercial Fishing Licenses.

Description of policy issues to be resolved, include groups likely to be impacted or interested in the issue.

In a trial initiative, the Department of Natural Resources will offer financial incentives to reduce the number of state-licensed commercial fishers operating on Lake Superior. Through a cooperative program with willing Lake Superior commercial fishing licensees, financial incentives will be used to accelerate "limited entry", the legislatively-sanctioned policy which involves limited or reducing the number of participants in the commercial fishery. Willing licensees, under this initiative, would agree to retire their license and trout quota tags, and the administrative rules relating to Lake Superior commercial fishing would be amended to reduce the authorized number of commercial fishing licenses on the lake and the total annual trout quota for the lake in amounts consistent with the number of retired licenses.

By reducing the number of commercial fishing licensees, the Department hopes to redirect a significant portion of the commercial lake trout harvest to enhance the lake trout restoration effort and the quality of the sport fishery. The trial program is a new technique in multi-use management of the Great Lakes fishery, which has as its goal the existence of an economically viable and stable commercial fishery and an active recreational fishery.

The amount of the financial incentive offered each participant is based upon a value determined through information developed by Sea Grant and the Department of Revenue.

Sport fishers and commercial fishers on Lake Superior will be affected by the program. It is expected that the Lake Trout populations will be rehabilitated at a faster rate by this reduction in quota tags issued to commercial fishing licensees at this time.

Others may have an interest in this type of program. However, the Department has no ability to consider further program. There is no funding available for other programs. And, nothing further should be considered until this unique trial program is fully completed and evaluated.

Statutory authority for the proposed rule.

S. 29.33 (1), Stats.

Anticipated time commitment.

15 hours.

Natural Resources**Subject.**

Clarification, updating, and revisions relating to design requirements for sewerage systems. (Ch. NR 110)

Description of policy issues to be resolved, include groups likely to be impacted or interpreted in the issue.

The original Rule Checklist form, dated September 30, 1993, identified the intent to update the technical requirements of ch. NR 110 with respect to nutrient removal, disinfection, influent/effluent flow monitoring and lift station design. It has been decided to defer the revisions relating to nutrient removal and disinfections, and this amendment eliminates these two items from the current proposal. The amendment proposed the addition of ch. NR 110 revisions relating to wastewater treatment plant separation distances to residential or commercial development, and the updating of miscellaneous code references, and the clarification of code definitions and other miscellaneous requirements. The proposed code definitions will include a new definition for "design flow" terms.

This proposal will affect owners of all sewerage systems except those defined as industrial facilities or as private sewage systems under s. 145.01 (10), Stats.

Statutory authority for the proposed rule.

SS. 144.02 and 144.04, Stats.

Anticipated time commitment.

252 hours.

SUBMITTAL OF RULES TO LEGISLATIVE COUNCIL CLEARINGHOUSE

Notice of Submittal of Proposed Rules to Wisconsin Legislative Council Rules Clearinghouse

Please check the Bulletin of Proceedings for further information on a particular rule.

Corrections, Dept. of

Rule Submittal Date

Notice is hereby given that pursuant to s. 227.14 (4m), Stats., on May 29, 1996, the Department of Corrections submitted to the Legislative Council Rules Clearinghouse a proposed order revising ch. DOC 326.

Analysis

The subject matter of the proposed rule relates to leave for qualified inmates.

Agency Procedure for Promulgation

A public hearing is required under s. 227.16 (1), Stats., and will be scheduled at a later date. The organizational unit that is primarily responsible for promulgation of the rule is the Division of Adult Institutions.

Contact Person

If you have any questions, you may contact Gloria Thomas, at (608) 267-1732.

Health & Social Services

Rule Submittal Date

On May 22, 1996, the Department of Health and Social Services submitted proposed rules affecting chs. HSS 101, 105 and 107, Wis. Adm. Code, to the Wisconsin Legislative Council Rules Clearinghouse, relating to the coverage of school-based medical services by the Medical Assistance (MA) program.

Analysis

Statutory authority: s. 49.45 (10), Stats. and s. 49.45 (3a) (b) and (c), Stats., as created by 1995 Wis. Act 27

These are rules for implementation of s. 49.45 (39), Stats., as created by 1995 Wis. Act 27, which establishes "school medical services" as a new covered benefit under the Medical Assistance program.

Under the statute, only school districts and cooperative educational service agencies (CESA's) may be providers of school-based services. The particular covered services are specified in the rules. These are: speech, language, hearing and audiological services; OT; PT; nursing services; psychological counseling and social work related to mental health needs; developmental testing and assessments under the federal Individuals with Disabilities Education Act, to include evaluations and tests to determine if motor, speech, language or psychological problems exist and to detect developmental lags; special transportation in a vehicle equipped with a ramp or lift when an MA-covered service is provided at school or another location; and certain durable medical equipment for a recipient's use at school or house.

The federal HCFA limited coverage for transportation and durable medical equipment and insisted on prescription requirements and daily notes on services provided. These conditions and requirements have been incorporated in the rules

Schools are obliged under federal and state statutes to provide some medical services for their handicapped students. The rules permit but do not require school districts and CESA's to be MA-certified providers and to pay for part of the costs of these services with federal MA funds. Some large school districts currently indirectly bill MA, but most schools are not now getting MA reimbursement.

Agency Procedure for Promulgation

Public hearings under ss. 227.16, 227.17 and 227.18, Stats., approval of rules in final draft form by the Secretary; and legislative standing committee review under s. 227.19, Stats.

Hearings will be scheduled later.

Contact Person

If you have any questions, you may contact Anna Degelau, Division of Health, at (608) 266-5635.

Health & Social Services

Rule Submittal Date

On May 29, 1996, the Department of Health and Social Services submitted proposed rules affecting chs. HSS 172, 175, 178 and 195 to 198, Wis. Adm. Code, to the Wisconsin Legislative Council Rules Clearinghouse, relating to permit fees for public swimming pools, recreational and educational camps, campgrounds, hotels, motels and tourist rooming houses, restaurants, bed and breakfast establishments and food and beverage vending operations.

Analysis

Statutory authority: Sections 254.47 (4) and 254.68

These rule amendments increase permit fees for restaurants, campgrounds, swimming pools, educational and recreational camps, hotels and motels, bed and breakfast establishments and food vending operations, and preinspection fees for restaurants, hotels and motels, bed and breakfast establishments and food vending commissaries. The order provides for an increase in 23 fees by an average of 12%, yielding a revenue increase of \$142,580 for the 16,275 affected establishments. Increased fee revenue is needed to cover increased costs of the regulatory program. Fees are to cover costs of the regulatory program.

The fee increases will be effective July 1, 1996 through an emergency rule order.

Before July 1, 1994, permit fees for these facilities were set by statute. The 1993-95 Budget Act, 1993 Wis. Act 16, repealed the statute-set fees effective July 1, 1994 and the Department was directed to have rule-set fees in effect by that date. That was done without increasing fees on July 1, 1994, but with increases made on July 1, 1995.

The fees included in these rule amendments apply only to establishments that are issued permits by the Department, not those issued permits by local health departments serving as agents of the Department. Agent local health departments set their own fees for permits.

Agency Procedure for Promulgation

Public hearings under ss. 227.16, 227.17 and 227.18, Stats., approval of rules in final draft form by the Secretary; and legislative standing committee review under s. 227.19, Stats.

Hearings will be scheduled later.

Contact Person

If you have any questions, you may contact Elmo Smyth, Division of Health, at (608) 266-8294.

Insurance, Commissioner of**Rule Submittal Date**

In accordance with ss. 227.14 and 227.15, Stats., on May 31, 1996, the Office of the Commissioner of Insurance submitted a proposed rule to the Wisconsin Legislative Council Rules Clearinghouse.

Analysis

The proposed rule affects s. Ins 14.02 and ch. Ins 51, relating to financial standards for insurers.

Agency Procedure for Promulgation

A public hearing will be held on July 2, 1996, to obtain public comment regarding these changes.

Contact Person

For additional information, please contact Fred Nepple at (608) 266-7726 in the OCI Legal Unit.

Revenue**Rule Submittal Date**

Notice is hereby given, pursuant to s. 227.14 (4m), Stats., that on May 24, 1996, the Wisconsin Department of Revenue submitted a proposed rule order to the Wisconsin Legislative Council Rules Clearinghouse.

Analysis

The proposed rule order amends ss. Tax 11.28, 11.46, 11.51 and 11.87, relating to the sales and use tax treatment of gifts and other advertising specialties, and the sale of food and beverages.

Agency Procedure for Promulgation

The Department intends to promulgate the proposed rule order without a public hearing, pursuant to s. 227.16 (2) (e), Stats.

The Office of the Secretary is primarily responsible for the promulgation of the rule order.

Contact Person

If you have questions regarding this rule, you may contact Mark Wipperfurth of the Income, Sales and Excise Tax Division, at (608) 266-8253.

NOTICE SECTION

Notice of Hearings Health & Social Services (Medical Assistance, Chs. HSS 100–)

Notice is hereby given that pursuant to s. 49.45 (10), Stats., and s. 49.45(39), Stats., as created by 1995 Wis. Act 27, the Department of Health and Social Services will hold public hearings to consider the creation of ss. HSS 101.03(24m), (78m) and (78r), 105.53 and 107.36, relating to coverage of school-based medical services under the Medical Assistance program and certification of providers, and emergency rules now in effect on the same subject.

Hearing Information

June 26, 1996 Wednesday Beginning at 1:00 p.m.	Room 417 North (GAR Hall) State Capitol Building MADISON WI
June 27, 1996 Thursday Beginning at 1:00 p.m.	Room B45 State Office Building 819 North 6th Street MILWAUKEE WI

The public hearing sites are fully accessible to people with disabilities. Parking for people with disabilities for both locations is available in nearby parking ramps.

Analysis Prepared by the Department of Health & Social Services

The Budget Act, 1995 Wis. Act 27 created s. 49.45 (39), Stats., which requires the Department of Health and Social Services to reimburse school districts and Cooperative Educational Service Agencies (CESAs) for Medical Assistance school-based services. This rulemaking order describes the covered services: speech, language, audiology and hearing services; occupational therapy; physical therapy; nursing services; psychological services, counseling and social work; developmental testing and assessments; transportation; and certain durable medical equipment. The order also explains the record-keeping collaboration with other health care providers required of school-based service providers.

Contact Person

To find out more about the hearings or to request a copy of the rules, phone or write:

Anna Degelau, 608-266-5635
or, if you are hearing-impaired,
608-266-1511 (TDD)
Bureau of Health Care Financing
P.O. Box 309
Madison, WI 53707

If you are hearing- or visually-impaired, do not speak English, or have other personal circumstances which might make communication at a public hearing difficult and if you, therefore, require an interpreter, or a non-English, large print or taped version of the public hearing document, contact the person at the address or phone number above. A person requesting a non-English or sign language interpreter should make that request at least 10 days before the public hearing. With less than 10 days notice, an interpreter may not be available.

Written Comments

Written comments on the proposed rules received at the above address no later than **July 8, 1996**, will receive the same consideration as testimony presented at a public hearing.

Fiscal Estimate

The 1995–97 Budget Act, 1995 Wis. Act 27, added school medical services as a covered benefit under the Medical Assistance program. These are rules to implement the new covered benefit. Under the rules, school districts and CESAs are identified as MA–certified providers of school–based medical services to students who are eligible for MA. These rules specify the covered services, record–keeping requirements and requirements for coordinating service provision with MA–assigned health maintenance organizations and MA fee–for–service providers serving the same children. School districts and CESAs are not required under s. 49.45(39), Stats., as related by Act 27, or by these rules to provide school–based medical services to certain students, but if they do and if the students are MA–eligible, they can claim reimbursement from the Department for part of the costs of the services. These rules will not affect the expenditures or revenues of state government or local governments. All costs were considered by the Legislature when school medical services were made a covered MA benefit.

Initial Regulatory Flexibility Analysis

These rules apply to school districts and CESAs. They will not directly affect small businesses as “small business” is defined in s. 227.114 (1) (a), Stats.

Notice of Hearing
Industry, Labor & Human Relations
(Fire Prevention, Ch. ILHR 14)

Notice is given that pursuant to ss. 101.02 (1) and (15) (h) to (j) and 101.14, Stats., the Department of Industry, Labor and Human Relations proposes to hold a public hearing to consider the revision of ch. ILHR 14, Wis. Adm. Code, relating to the inspection of fire extinguishing systems.

Hearing Information

July 1, 1996 **201 E. Washington Ave.**
Monday **Room 103, GEF–1**
1:00 p.m. **Madison, WI**

Analysis

Statutory authority: ss. 101.02 (1) and (15) (h) to (j), and 101.14
Statutes interpreted: ss. 101.02 (1) and (15) (h) to (j), and 101.14

The Division of Safety and Buildings within the Department of Industry, Labor and Human Relations is responsible for adopting and enforcing rules relative to the protection of the life, health, safety and welfare of employees and frequenters in public buildings and places of employment. Section 101.14, Stats., establishes the authority of the department and local fire departments for fire inspections, prevention, detection and suppression in public buildings and places of employment. Chapter ILHR 14, Wis. Adm. Code establishes the rules utilized in making the required fire prevention inspections.

The proposed rules consist of a revision to the requirements relating to the inspection and testing of fire extinguishing systems for food preparation equipment. The revision allows the inspection and testing to be performed by a properly trained person rather than only by a factory–authorized person. This change is consistent with national standards published by the National Fire Protection Association.

The proposed rules also contain corrections of references to national standards adopted in the Wisconsin Commercial Building Code.

The proposed rules have been recommended by the Wisconsin Fire Prevention Council. The members of that citizen advisory committee are as follows:

Name	Representing
Neil Cameron	Wisconsin AFL–CIO
Martin Collins	City of Milwaukee
George Deel	Wisconsin Insurance Alliance
Charles Elliott	Wisconsin Petroleum Council
John Fulcher	Wisconsin State Fire Chiefs Association
Steven Hook	Professional Fire Fighters of Wisconsin

Thomas Jahn	Wisconsin Manufactures & Commerce
Matthew Kerschner	Wisconsin Propane Gas Association
Dallas Millard	Wisconsin State Firefighters Association
Mark Noah	Wisconsin Utilities Association
Robert Vajgrt	Wisconsin Fire Inspectors Association
David Wheaton	Wisconsin Building Inspectors Association

Copies of the Rules

A copy of the rules to be considered may be obtained from the State Department of Industry, Labor and Human Relations, Division of Safety and Buildings, 201 E. Washington Ave., P.O. Box 7969, Madison, WI 53707, by calling (608) 266–9375 or at the appointed time and place the hearing is held.

Written Comments and Contact Person

Interested persons are invited to appear at the hearings and will be afforded the opportunity of making an oral presentation of their positions. Persons making oral presentations are requested to submit their facts, views and suggested rewording in writing. Written comments from persons unable to attend the public hearing, or who wish to supplement testimony offered at the hearing, may be submitted no later than **July 15, 1996**, for inclusion in the summary of public comments submitted to the Legislature. Any such comments should be submitted to Ronald Acker at the address noted above. Written comments will be given the same consideration as testimony presented at the hearings. Persons submitted comments will not receive individual responses.

The hearing is held in an accessible facility. If you have special needs or circumstances which may make communication or accessibility difficult at the hearing, please call (608) 266–9375 or Telecommunication Device for the Deaf (TDD) at (608) 264–8777 at least 10 days prior to the hearing date. Accommodations such as interpreters, English translators or materials in audio tape format will, to the fullest extent possible, be made available on request by a person with a disability.

Initial Regulatory Flexibility Analysis

1. Types of small businesses that will be affected by the rules.
The proposed rules will affect any business that provides inspection and testing services for fire extinguishing systems used in food preparation equipment.
2. Reporting, bookkeeping and other procedures required for compliance with the rules.
The proposed rules require no reporting, bookkeeping or other procedures beyond those required by current rules.
3. Types of professional skills necessary for compliance with the rules.
There are no types of professional skills necessary for compliance with the proposed rules.

Fiscal Estimate

The proposed rules will not affect the administration and enforcement of the fire prevention program. Also, the proposed rules do not contain any new fees or revisions to existing fees. Therefore, no fiscal impact is anticipated as a result of the proposed rules.

Notice of Hearing
Insurance

The Commissioner of Insurance, pursuant to the authority granted under s. 601.41 (3), Stats., and according to the procedures under s. 227.18, Stats., will hold a public hearing in **Room 23, 121 East Wilson Street, Madison, Wisconsin, on Tuesday, July 2, 1996, at 10:00 a.m.**, or as soon thereafter as the matter may be reached, to amend s. Ins 51.75 (2), as renumbered, to renumber s. Ins 14.02; to repeal ch. Ins 14 (title); and to create ch. Ins 51, Wis. Adm. Code, relating to financial standards for insurers.

Summary of Proposed Rule

Statutory authority: ss. 601.41 (3) and 601.42

Statutes interpreted: ss. 601.465, 611.19, 613.19, 628.34 and chs. 623 and 645

This rule adopts supplemental risk based capital and surplus requirements for most insurers doing business in this state. The rule also requires insurers which are insurance service corporations to comply with the same capital, compulsory surplus and security surplus requirements that apply to other insurers engaged in the same type of insurance business in this state.

Risk Based Capital Requirements.

The rule requires a property and casualty, life or health domestic insurer to calculate and report its “risk based capital.” The insurer is required by the rule to maintain capital and surplus that reflects the risk associated with the insurer’s operations relating to certain specified categories such as liabilities and assets. An insurer is required to calculate its “risk based capital” using forms and instructions developed by the National Association of Insurance Commissioners.

The rule establishes four levels of capital and surplus standards. These are the “company action”, “regulatory action”, “authorized control” and “mandatory control” levels. At each level the rule requires the insurer or OCI to take appropriate action to remedy any financial deficiency.

An insurer which maintains capital and surplus in excess of the company action level is not subject to those requirements. If capital decreases to company action level the insurer must file and follow a plan to correct its condition; at regulatory action level OCI must require the insurer to take corrective action; at the authorized control level OCI must make a determination of whether a formal proceeding should be commenced; and at the mandatory control level OCI must take control of the insurer through legal proceedings. The rule includes only limited exceptions from these requirements.

A domestic insurer is required to by March 1 annually file a risk based capital calculation and report with OCI. OCI may also require non-domestic insurers to file such a report.

An insurer may request a hearing to contest an OCI determination of its level of risk based capital or with respect to a plan submitted by the insurer. The commissioner may keep risk based capital reports confidential. However financial statements from which risk based capital is calculated are public. The use of risk based capital levels of competitors for marketing purposes is prohibited as misleading.

The risk based capital requirements do not apply to a health maintenance organization insurer, limited service health organizations, town mutual insurers, school benefit plans, motor vehicle clubs, fraternal insurers, or to insurance plans administered under the direct supervision of OCI. The risk based capital requirements will apply to insurance service corporations after the commissioner makes a determination that appropriate risk based capital reporting forms and instructions have been developed through the NAIC. The commissioner may by order subject an exempt insurer to the risk based capital requirement. Also, the commissioner may by order exempt any domestic property and casualty insurer which does business only in this state, and no more than \$3,000,000 in annual premium, from risk based capital requirements.

Permanent Capital, Compulsory Surplus And Security Surplus Requirements.

This rule supplements, is in addition to, and does not replace the existing capital, compulsory surplus and security surplus requirements which apply to domestic and non-domestic insurers. Also, the procedural rights and process prescribed in the rule for risk based capital apply solely to risk based capital requirements and not to proceedings or determinations made under the existing capital, compulsory surplus or security surplus requirements and not to grounds asserted in a delinquency proceeding.

The rule does apply the existing capital, compulsory surplus and security surplus requirements to insurance service corporations.

The rule is effective on **January 1, 1997**, and applies to reports for year end calendar year 1996.

Summary of Fiscal Estimate

There will be no state or local government fiscal effect.

Initial Regulatory Flexibility Analysis

This rule may have an impact on insurers which are small businesses. The rule includes exceptions or provisions form exemptions which will be available to small insurers. The professional skills, reporting, and record keeping required to comply with this rule are primarily accounting and actuarial in nature and will not significantly differ from existing requirements.

Contact Person

A copy of the text of the proposed rule and fiscal estimate may be obtained from Meg Gunderson, Services Section, Office of the Commissioner of Insurance, 121 East Wilson Street, P. O. Box 7873, Madison, Wisconsin 53707-7873, (608) 266-0110.

**NOTICE OF SUBMISSION OF PROPOSED RULES TO THE PRESIDING OFFICER OF EACH HOUSE OF THE LEGISLATURE,
UNDER S. 227.19, STATS.**

Please check the Bulletin of Proceedings for further information on a particular rule.

Agriculture, Trade & Consumer Protection (CR 95–190):

Ch. ATP 42 – Relating to commercial feed.

Agriculture, Trade & Consumer Protection (CR 96–15):

Ch. ATP 99 – Relating to grain warehouse keepers and grain dealers.

Architects, Landscape Architects, Professional Geologists, Professional Engineers, Designers and Land Surveyors Examining Board (CR 96–49):

S. A–E 3.05, 4.08, 5.04, 6.05, 9.05 and 10.05 – Relating to examination reviews.

Dentistry Examining Board (CR 96–50):

S. DE 12.01 (3) – Relating to the delegation of the polishing portion of an oral prophylaxis by a dentist to an unlicensed person.

Health & Social Services (CR 95–236):

Ch. HSS 89 – Relating to assisted living facilities.

Industry, Labor & Human Relations (CR 95–228):

Ch. ILHR 5 – Relating to credentials.

Industry, Labor & Human Relations (CR 96–13):

Ch. ILHR 16 – Relating to Electrical Code, Volume 2.

Insurance, Commissioner of (CR 96–45):

SS. Ins 17.01, 17.26 and 17.28 – Relating to annual patients compensation fund and mediation fund fees for the fiscal year beginning July 1, 1996, future medical expense attachment point changing from \$25,000 to \$100,000.

Medical Examining Board (CR 96–27):

S. Med 10.02 (2) (q) – Relating to unprofessional conduct.

Natural Resources (CR 95–195):

Ch. NR 48 – Relating to the applications to withdraw lands entered as county forest.

Natural Resources (CR 96–19):

SS. NR 10.102 and 10.30 – Relating to bear hunting.

Natural Resources (CR 96–20):

SS. NR 10.01, 10.09, 10.117, 11.04 and 15.024 – Relating to hunting and trapping.

Revenue (CR 95–161):

Ch. Tax 9 – Relating to cigarette taxes.

Transportation (CR 96-57):

Ch. Trans 258 – Relating to seed potato overweight permits.

ADMINISTRATIVE RULES FILED WITH THE REVISOR OF STATUTES BUREAU

The following administrative rules have been filed with the Revisor of Statutes Bureau and are in the process of being published. The date assigned to each rule is the projected effective date. It is possible that the publication of these rules could be delayed. Contact the Revisor of Statutes Bureau at (608) 266-7275 for updated information on the effective dates for the listed rules.

Chiropractic Examining Board (CR 95-232):

An order amending s. Chir 9.03 (6), relating to approved chiropractic college preceptorship programs.
Effective 08-01-96.

Elections Board (CR 96-12):

An order amending s. ElBd 6.04, relating to filing documents with filing officers by means of facsimile (FAX) transmission.
Effective 07-01-96.

Health & Social Services (CR 95-229):

An order affecting ss. HSS 201.30 and 201.303, relating to participation of Aid to Families with Dependent Children (AFDC) recipients in the AFDC Benefit Cap Demonstration Project.
Effective 08-01-96.

Industry, Labor & Human Relations (CR 96-5):

An order affecting ss. Ind 80.60 and 80.64, relating to self-insurance application fees.
Effective 08-01-96.

Industry, Labor & Human Relations (CR 96-6):

An order creating s. Ind 80.62, relating to the uninsured employers fund.
Effective 08-01-96.

Industry, Labor & Human Relations (CR 96-24):

An order creating s. Ind 80.15, relating to payment after order.
Effective 08-01-96.

Insurance, Office of the Commissioner of (CR 95-204):

An order affecting ss. Ins 3.455 and 3.46, relating to the requirements for long-term care insurance sold in Wisconsin.
Effective 08-01-96.

Natural Resources (CR 95-107):

An order affecting ss. NR 812.09 and 812.33, relating to fiberglass pressure tank use in private wells.
Effective 08-01-96.

Natural Resources (CR 95-108):

An order affecting ch. NR 120, relating to the Nonpoint Source Pollution Abatement program.
Effective 08-01-96.

Natural Resources (CR 95-117):

An order creating s. NR 19.30, relating to requiring criminal history checks on all volunteer all-terrain vehicle (ATV), boating, bowhunter, hunter education and snowmobile safety instructors.
Effective 08-01-96.

Natural Resources (CR 95-185):

An order creating s. NR 1.52, relating to a policy on promulgation of environmental quality standards.
Effective 08-01-96.

Natural Resources (CR 95-188):

An order affecting ss. NR 150.03 and 605.05 and the chs. NR 500— series, relating to solid waste management.
Effective 07-01-96.

Natural Resources (CR 95-193):

An order affecting chs. NR 161, 162, 163 and 165, relating to financial assistance under the Clean Water Fund program.
Effective 07-01-96.

Natural Resources (CR 95-221):

An order affecting ss. NR 28.03 and 28.04, relating to wild ginseng.
Effective 08-01-96.

Regulation & Licensing (CR 95-80):

An order creating ch. RL 7 and Appendix I, relating to the impaired professionals procedure.
Effective 08-01-96.

Regulation & Licensing (CR 95-211):

An order affecting ch. RL 1, relating to procedures to review denials of credentials.
Effective 08-01-96.

Regulation & Licensing (CR 96-14):

An order affecting ch. RL 4, relating to examination fees, refunds and fees for test reviews.
Effective 08-01-96.

Tourism (CR 96-48):

An order affecting ss. Tour 1.02, 1.03 and 1.05, relating to the joint effort marketing program.
Effective 08-01-96.

PUBLIC NOTICES

Public Notice Natural Resources (Environmental Protection)

Section 144.025 (2) (b) 2. a., Stats., published November 9, 1987, requires the Department of Natural Resources to “At least annually publish and provide public notice of water quality criteria to be adopted, revised or reviewed in the following year.” Pursuant to this section, the Department hereby provides notice that it intends to adopt or revise water quality criteria for the following substances:

Metals and Inorganics

Aluminum
Antimony
Arsenic
Asbestos
Beryllium
Cadmium
Chromium (+6)
Chromium (+3)
Copper
Cyanides
Fluoride
Iron
Lead
Mercury
Nickel
Selenium
Silver
Thallium
Zinc
Ammonia
Chloride
Chlorine
Phosphorus

Halogenated Polycyclic Aromatic Hydrocarbons

2,3,7,8-Tetrachlorodibenzofuran
2,3,7,8-Tetrachlorodibenzo-p-dioxin
Chloronaphthalenes
Chlorinated Dioxins
Chlorinated Furans

Chlorinated Xanthanes
Octochlorostyrene

Polychlorinated biphenyls

Pesticides

Acrolein
Alachlor
Aldrin
Atrazine
Butylate
Chlordane
Chlordane
Chlorpyrifos
DDT & metabolites
Dieldrin
Dimethoate
Endosulfan
alpha-Endosulfan
beta-Endosulfan
Endosulfan sulfate
Endrin
Endrin aldehyde
Heptachlor
Heptachlor epoxide
Hexachlorobutadiene
Hexachlorocyclohexane (lindane,
all isomers)
Isophorone
Malathion
Metolachlor
Mirex
Parathion
Photomirex
Toxaphene
Trifluralin

Halogenated Aliphatics

1,1,2,2-Tetrachloroethane
1,1,1-Trichloroethane
1,1,2-Trichloroethane
1,1-Dichloroethane
1,2-Dichloroethane
1,2-Dichloroethene
1,2-Dichloropropane
1,3-Dichloropropane
1,2-Trans-dichloroethene
Bromodichloromethane
Bromomethane
Chloroethane

Chloroethene (vinyl chloride)
Dibromochloromethane
Dichloromethane (methylene chloride)
Halomethanes
Hexachlorobutadiene
Hexachlorocyclopentadiene
Hexachloroethane
Tetrachloroethene
Tribromomethane
Trichloroethene (carbon tetrachloride)
Trichloromethane (methylene chloride)

Ethers

2-Chloroethyl vinyl ether
4-Bromophenyl phenyl ether
4-Chlorophenyl phenyl ether
Bis(2-chlorethoxy) methane
Bis(2-chloroethyl) ether
Bis(2-chloroisopropyl) ether

Monocyclic Aromatics

1,2,3,4-Tetrachlorobenzene
1,2,4,5-Tetrachlorobenzene
1,2,4-Trichlorobenzene
1,2-Dichlorobenzene
1,3-Dichlorobenzene
1,4-Dichlorobenzene
2,4-Dinitrotoluene
2,6-Dinitrotoluene
Benzene
Chlorobenzene
Ethylbenzene
Hexachlorobenzene
Nitrobenzene
Pentachlorobenzene
Toluene

Phenols and Cresols

2,3,4,6-Tetrachlorophenol
2,4,5-Trichlorophenol
2,4,6-Trichlorophenol
2,3-Dichlorophenol
2,4-Dimethylphenol
2,5-Dichlorophenol
2,6-Dichlorophenol
2,4-Dichlorophenol
2-Chlorophenol
2-Methyl-4-Chlorophenol
2-Nitrophenol

3,4-Dichlorophenol
3-Chlorophenol
3-Methyl-4-Chlorophenol
3-Methyl-6-Chlorophenol
4-Nitrophenol
4,6-Dinitro-P-cresol
4-Chlorophenol
Alkyl Phenols
Dinitrophenols
2-isopropylphenol
3-isopropylphenol
4-isopropylphenol
2,4-diisopropylphenol
2,5-diisopropylphenol
2,6-diisopropylphenol
3,5-diisopropylphenol
2-methyl-5-isopropylphenol
2-isopropyl-5-methylphenol
Pentachlorophenol
Phenol
P-Chloro-m-cresol
Thiophenol
Thiocresol

Phthalate Esters

Bis(2-ethylhexyl) phthalate
Butyl benzyl phthalate
Diethyl phthalate
Dimethyl phthalate
Di-n-butyl phthalate
Di-n-octylphthalate

Polycyclic Aromatics

Acenaphthene
Acenaphthylene
Anthracene
Benzo(a) pyrene
Benzo(a) anthracene
Benzo(b) fluoranthene
Benzo(ghi) perylene
Benzo(k) fluoranthene
Chrysene
Dibenzo(a,h) anthracene
Fluoranthene
Fluorene
Indeno (1,2,3-cd) pyrene
Naphthalene
Phenanthrene

Polynuclear aromatic hydrocarbons
Pyrene

Nitrosamines and Miscellaneous Compounds

1,2-Diphenylhydrazine
3,3'-Dichlorobenzidine
Acrylonitrile
Benzidine
Dimethyl nitrosamine
Diphenyl nitrosamine
Di-n-propyl nitrosamine

The Department also intends to review water quality criteria for the following:

Fecal coliform or other indicator bacteria;
Dissolved oxygen;
pH; and
Temperature.

Public Notice

Securities, Commissioner of

Order Exempting Certain Offers of Securities Made on the Internet from Securities Registration

Whereas the Wisconsin Commissioner of Securities (“Commissioner”) is charged with the administration of chapter 551, Wis. Stats., the Wisconsin Uniform Securities Law (the “Law”) and s. SEC 1.01 et seq. of the rules of the Commissioner of Securities promulgated under the law;

Whereas section 551.63 (1) of the Law provides, in part, that “[t]he Commissioner may from time to time make, amend and rescind such ... orders as are necessary to carry out the provisions of this chapter”;

Whereas section 551.23 (1) (intro) of the Law states that: “The following transactions are exempt from registration under s. 551.21 (1): ...,” and s. 551.23 (18) thereunder states: “Any other transaction as to which the Commissioner by rule or order finds that registration is not necessary or appropriate for the protection of investors.”

Whereas the Commissioner acknowledges that an attempt or offer to dispose of, or the solicitation of an offer to buy, a security or an interest in a security for value, that is made on or through the Internet, the World Wide Web or a similar proprietary or common carrier electronic system (such systems hereinafter being referred to collectively as the “Internet”), would constitute an “offer” for purposes of section 551.02 (11) (b) of the Law and would otherwise trigger the securities registration and the sales literature filing requirements in sections 551.21 (1) and 551.53 of the Law;

Whereas the Commissioner also acknowledges that use of the Internet may be a legitimate means of raising capital, and that a communication made on the Internet may be directed not only to particular recipients but also to anyone with access to the Internet;

Whereas the Commissioner finds that the issuance of this Order is necessary or appropriate in the public interest or for the protection of investors and is consistent with the purposes fairly intended by the policy and provisions of the Law;

Whereas the Commissioner further finds that the registration of, and the filing of advertising materials relating to, certain Internet offers is not necessary or appropriate in the public interest or for the protection of investors;

The Commissioner therefore orders that:

- 1) Pursuant to section 551.23 (18) of the Law, offers of securities made by, or on behalf of, issuers on or through the Internet shall be exempt from the securities registration requirement in section 551.21 (1) and exempt from the advertising filing requirement in section 551.53 (1) (b) of the Law if the following conditions are met:
 - (A) The Internet offer indicates, directly or indirectly, that the securities are not being offered to residents of Wisconsin.
 - (B) The Internet offer is not specifically directed to any person in Wisconsin by, or on behalf of, the issuer of the securities; and
 - (C) No sales of the issuer’s securities are made in Wisconsin as a result of the Internet offering until such time as the securities being offered have been registered under sections 551.25 or 551.26 of the Law and a final prospectus or Form U-7 is delivered to Wisconsin investors prior to such sales.
- 2) Nothing in this order shall preclude an issuer, or a person acting on behalf of an issuer, which offers securities on the Internet or effects sales to Wisconsin residents following such an offering from relying upon any other applicable exemption pursuant to section 551.22 or 551.23 of the Law, nor shall this order relieve such persons from liability under section 551.41 of the Law.
- 3) This order shall remain in effect until amended or rescinded by the Commissioner.

The Commissioner of Securities Office will propose an administrative rule concerning this issue to be included as part of the Office’s annual rule revision process for 1996.

Copies

Copies of the order are available free of charge by writing to:

Office of the Commissioner of Securities
P.O. Box 1768
MADISON, WI 53701

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